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

15           The purposes of this Act are to:

16           (1) Increase the number of competent personnel available  
17 to support public school students by making permanent the  
18 exemption from the behavior analyst licensing requirements for

1 teachers working in collaboration with a licensed behavior  
2 analyst or licensed psychologist; and

3 (2) Remove the exemption from the behavior analyst  
4 licensing requirements for direct support workers and allow a  
5 registered behavior technician who is under the direction of a  
6 licensed psychologist to implement applied behavior analysis  
7 services.

8 SECTION 2. 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  
22 level practitioners and postdoctoral fellows may

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

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

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

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

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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 [~~7~~ 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;]~~ or a licensed psychologist;

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  
22 analyst or Hawaii-licensed psychologist; provided that

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

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

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

20 (8) A matriculated graduate student or postdoctoral fellow  
21 whose activities are part of a defined applied  
22 behavior analysis program of study, practicum, or

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1 intensive practicum; provided that the student's or  
2 fellow's activities or practice is directly supervised  
3 by a licensed behavior analyst, licensed psychologist,  
4 or an instructor from a nationally recognized training  
5 organization or in a Behavior Analyst Certification  
6 Board-approved course sequence; or

7 (9) An individual pursuing experience in applied behavior  
8 analysis consistent with the Behavior Analyst  
9 Certification Board's experience requirements;  
10 provided that the experience is supervised by a  
11 licensed behavior analyst."

12 SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



17

BY REQUEST

JAN 23 2023

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**Report Title:**

Practice of Behavior Analysis; Exemptions

**Description:**

Makes permanent the exemption from the behavior analyst licensing requirements for 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.

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

JUSTIFICATION SHEET

DEPARTMENT: Education

TITLE: A BILL FOR AN ACT RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS.

PURPOSE: Makes permanent the exemption from the behavior analyst licensing requirements for 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.

MEANS: Amends section 465D-7, Hawaii Revised Statutes.

JUSTIFICATION: The Hawaii State Department of Education is finding it more difficult to attract and retain qualified licensed behavior analysts for the public school system. Staff shortages lead to students not obtaining adequate support in their education. While the Department continues to build its internal capacity for its applied behavior analysis services to meet the licensure requirement under chapter 465D, Hawaii Revised Statutes, a large portion of the services provided must be contracted through a statewide contract at a high cost.

This bill will increase the number of competent personnel available to support public school students by making permanent the exemption from the behavior analyst licensing requirements for teachers working in collaboration with a licensed behavior analyst or licensed psychologist beyond July 1, 2019, and allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services.

This bill removes the exemption from the behavior analyst licensing requirements for direct support workers because the bill more specifically defines the appropriate worker classifications that should be allowed to obtain the exemption.

Impact on the public: Allows for increased support for students by adding that a registered behavior technician under the direction of a licensed psychologist be allowed to implement applied behavior analysis services and making permanent the exemption for teachers working in collaboration with a licensed behavior analyst or licensed psychologist.

Impact on the department and other agencies: The Department would have to work closely with the Department of Commerce and Consumer Affairs on implementation.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: EDN 150

OTHER AFFECTED AGENCIES: Department of Commerce and Consumer Affairs

EFFECTIVE DATE: Upon approval.