

ACT 107

S.B. NO. 1311

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that licensure for the practice of behavior analysis in Hawaii is needed for the public's health, safety, and welfare. Act 199, Session Laws of Hawaii 2015, codified as chapter 465D, Hawaii Revised Statutes, established standards for the licensing of behavior analysts to address the present and critical need to ensure that persons requiring diagnosis and treatment for autism receive the care they need. Act 199 recognized that behavior analysts and the practice of behavior analysis should be subject to regulation and control to protect the public from unqualified practitioners and from unprofessional conduct. The legislature finds that licensure of behavior analysts is necessary for both client protection and access to services.

While ensuring the provision of quality services by properly trained providers is of the utmost importance, the State's current credentialed workforce is inadequate to meet present needs. Thus, policies that ensure that a qualified workforce can continue to provide necessary behavior interventions while simultaneously facilitating efforts to build an adequate workforce of credentialed paraprofessionals and licensed professionals to implement behavior plans are imperative.

The purpose of this Act is to ensure that behavioral services continue to be available for clients who depend on them while facilitating the long-term development of an adequate professional and paraprofessional workforce.

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

"(a) This chapter is not intended to restrict the practice of other licensed or credentialed ~~healthcare~~ 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;
- (2) An individual who implements or designs applied behavior analysis services and possesses board certification as an assistant behavior analyst by the Behavior Analyst Certification Board and who practices in accordance with the most recent supervisory and ethical requirements adopted by the Behavior Analyst Certification Board under the direction of a behavior analyst licensed in this State;
- (3) An individual who directly implements applied behavior analysis services~~[-is]~~ and
 - (A) Is credentialed as a registered behavior technician by the Behavior Analyst Certification Board, and is under the direction of a behavior analyst licensed in this State; or
 - (B) Is a direct support worker who provides autism treatment services pursuant to an individualized education plan on or before January 1, 2019;

provided that for purposes of this paragraph, "direct support worker" means a teacher or paraprofessional who directly implements intervention or assessment plans under supervision and does not design intervention or assessment plans;
- (4) A family member or legal guardian implementing an applied behavior analysis plan ~~[within the home]~~ and who acts under the direction of a behavior analyst licensed in this State;
- (5) An individual who engages in the practice of behavior analysis with nonhuman or nonpatient clients or consumers including but not limited to applied animal behaviorists and practitioners of organizational behavior management;
- (6) A matriculated graduate student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum; provided that the student's or fellow's activities or practice is directly supervised by a behavior analyst licensed in this State or an instructor in a Behavior Analyst Certification Board-approved course sequence; or
- (7) An individual pursuing experience in behavior analysis consistent with the Behavior Analyst Certification Board's experience require-

ments; provided that the experience is supervised by a behavior analyst licensed in this State.”

SECTION 3. The department of education shall submit a report to the legislature prior to the convening of the regular sessions of 2017 and 2018 on its plans and progress in implementing measures to comply with the licensure and certification requirements of chapter 465D, Hawaii Revised Statutes.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 22, 2016.)