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H.B. NO. 471

A Bill for an Act Relating to Behavior Analysts.

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

SECTION 1. The legislature finds that Act 199, Session Laws of Hawaii 2015 (Act 199), codified as chapter 465D, Hawaii Revised Statutes, enacted a regulatory structure for behavior analysts. This regulatory structure is scheduled to sunset on June 30, 2021.

The legislature further finds that in December 2020, the auditor released report no. 20-20: "Sunset Evaluation: Regulation of Behavior Analysts," which found that the criteria for regulating professions contained in section 26H-2, Hawaii Revised Statutes, supports continued regulation of the applied behavior analysis profession. Specifically, the auditor's report found that:

- (1) Licensing requirements governing the practice of applied behavior analysis are reasonably necessary to protect the health, safety, or welfare of those receiving services, and therefore should be maintained. In particular, behavior analysts develop and supervise treatment in cases involving aggressive and impulsive behaviors, including physical aggression, property destruction, and self-injury;
- (2) Licensing the practice of applied behavior analysis protects consumers by establishing certain minimum qualifications, as treatment by unqualified individuals could worsen behavior and result in other negative social outcomes;
- (3) Regulation assures that behavior analysts are licensed professionals providing services that are eligible for insurance reimbursement; and

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- (4) Licensing of behavior analysts does not unreasonably restrict entry into the practice of applied behavior analysis in Hawaii and licensing fees cover the cost to administer the program.

The legislature additionally finds that since 2015, over three hundred licensed behavior analysts and over fourteen hundred behavior technicians are currently registered in the State. Thousands of children and adults have received access to applied behavior analysis services since the implementation of Act 199.

Accordingly, the purpose of this Act is to make permanent the regulation of behavior analysts under chapter 465D, Hawaii Revised Statutes.

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates for newly enacted professional and vocational regulatory programs. (a) Any professional or vocational regulatory program enacted after January 1, 1994, and listed in this section shall be repealed as specified in this section. The auditor shall perform an evaluation of the program, pursuant to section 26H-5, prior to its repeal date.

~~[(b) Chapter 465D (behavior analysts) shall be repealed on June 30, 2021.~~

~~(e)] (b) Chapter 466L (appraisal management companies) shall be repealed on June 30, 2023.~~

~~[(d)] (c) Chapter 457J (midwives) shall be repealed on June 30, 2025.”~~

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

SECTION 4. This Act shall take effect on June 29, 2021.

(Approved June 24, 2021.)