
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 licensed psychologist.

15 The purpose of this Act is to:

16 (1) Beginning August 1, 2024:



- 1 (A) Reinststate and make permanent the exemption from
- 2 the behavior analyst licensing requirements for
- 3 teachers working in collaboration with a licensed
- 4 behavior analyst or licensed psychologist;
- 5 (B) Expand the exemption for registered behavior
- 6 technicians to implement applied behavior
- 7 analysis services under the direction of a
- 8 licensed psychologist; and
- 9 (C) Reinststate and make permanent the exemption for
- 10 individuals who implement applied behavior
- 11 analysis services to participants in the medicaid
- 12 home and community-based services waiver program;
- 13 and
- 14 (2) Require the department of education to report to the
- 15 legislature on the status of implementing medicaid
- 16 reimbursements for applied behavior analysis services.

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

19 "(a) This chapter is not intended to restrict the practice
20 of other licensed or credentialed practitioners practicing



1 within their own recognized scopes of practice and shall not
2 apply to:

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

16 For purposes of this paragraph, "supervisee"
17 means a master's level practitioner, postdoctoral
18 fellow, direct support worker, paraprofessional,
19 caregiver, parent, or guardian who provides applied
20 behavior analysis services;



- 1 (2) A licensed classroom teacher or an individual who is
2 working as a classroom teacher and is enrolled in a
3 teacher preparation program working towards licensure
4 who implements, but does not design, applied behavior
5 analysis services in a school setting in direct
6 collaboration with a licensed behavior analyst or a
7 licensed psychologist [~~on or before July 1, 2019~~];
- 8 (3) An individual who implements or designs applied
9 behavior analysis services and possesses board
10 certification as an assistant behavior analyst by the
11 Behavior Analyst Certification Board and who practices
12 in accordance with the most recent supervisory and
13 ethical requirements adopted by the Behavior Analyst
14 Certification Board under the direction of a licensed
15 behavior analyst;
- 16 (4) An individual who directly implements applied behavior
17 analysis services and
18 ~~(A) is~~ is credentialed as a registered behavior
19 technician by the Behavior Analyst Certification
20 Board, and is under the direction of a licensed
21 behavior analyst ~~[; or~~



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

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

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



1 services waiver program authorized by section 1915(c)
2 of the Social Security Act;

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

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

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



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

6 SECTION 3. The department of education shall submit a
7 report to the legislature no later than February 1, 2024, on the
8 status of implementing medicaid reimbursements for applied
9 behavior analysis services provided in public schools.

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

12 SECTION 5. This Act shall take effect on June 30, 3000;
13 provided that section 2 shall take effect on August 1, 2024.



Report Title:

Practice of Behavior Analysis; Licensing; Behavior Analysts; Psychologists; Medicaid; Exemptions; Department of Education; Report

Description:

Beginning 8/1/2024, reinstates the exemption from the behavior analyst licensing requirements for certain teachers working in collaboration with a licensed behavior analyst or licensed psychologist; expands the exemption for registered behavior technicians to implement applied behavior analysis services under the direction of a licensed psychologist; and reinstates 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 services 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. (HD2)

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