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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 legislature finds that 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 behavioral 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) Increase the number of competent personnel available  
17           to support public school students by expanding the



1 exemption from the behavior analyst licensing  
 2 requirements for teachers working in collaboration  
 3 with a licensed behavior analyst or licensed  
 4 psychologist; and

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

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

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

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



1 licensed psychologist purports to be a licensed  
 2 behavior analyst; ~~and~~ provided further that master's  
 3 level practitioners and postdoctoral fellows may  
 4 provide training and supervision to direct support  
 5 workers, paraprofessionals, caregivers, parents, and  
 6 guardians in a manner and to the extent determined by  
 7 the supervising licensed psychologist.

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

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

20 (3) An individual who implements or designs applied  
 21 behavior analysis services and possesses board



1 certification as an assistant behavior analyst by the  
2 Behavior Analyst Certification Board and who practices  
3 in accordance with the most recent supervisory and  
4 ethical requirements adopted by the Behavior Analyst  
5 Certification Board under the direction of a licensed  
6 behavior analyst;

7 (4) An individual who directly implements applied behavior  
8 analysis services and[+]

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

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

18 ~~provided that for purposes of this paragraph, "direct~~  
19 ~~support worker" means a paraprofessional who directly~~  
20 ~~implements intervention or assessment plans under~~



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



- 1           (7) An individual who engages in the practice of applied  
2           behavior analysis with nonhuman or nonpatient clients  
3           or consumers, including but not limited to applied  
4           animal behaviorists and practitioners of  
5           organizational behavior management;
- 6           (8) A matriculated graduate student or postdoctoral fellow  
7           whose activities are part of a defined applied  
8           behavior analysis program of study, practicum, or  
9           intensive practicum; provided that the student's or  
10          fellow's activities or practice is directly supervised  
11          by a licensed behavior analyst, licensed psychologist,  
12          or an instructor from a nationally recognized training  
13          organization or in a Behavior Analyst Certification  
14          Board-approved course sequence; or
- 15          (9) An individual pursuing experience in applied behavior  
16          analysis consistent with the Behavior Analyst  
17          Certification Board's experience requirements;  
18          provided that the experience is supervised by a  
19          licensed behavior analyst."

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



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



**Report Title:**

Practice of Behavior Analysis; Exemptions

**Description:**

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. Allows a registered behavior technician who is under the direction of a licensed psychologist to implement applied behavior analysis services. (SD1)

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

