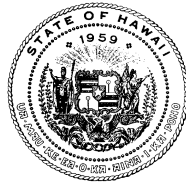


JOSH GREEN, M.D.  
GOVERNOR OF HAWAII  
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII



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**STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
DEVELOPMENTAL DISABILITIES DIVISION**

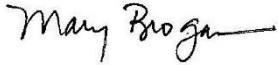
P. O. BOX 3378  
HONOLULU, HI 96801-3378  
TELEPHONE: (808) 586-5840  
FAX NUMBER: (808) 586-5844

In reply, please refer to:

File:

Medicaid I/DD Waiver  
Memo No.: FY2024-04  
Date: December 5, 2023

TO: Medicaid I/DD Waiver Providers

FROM: Mary Brogan, Administrator  
Developmental Disabilities Division 

SUBJECT: Implementation of Behavior Analysis Services; Act 167, Session Laws of Hawaii (2023)

The purpose of this memo is to advise providers about a new law signed by Governor Green: Act 167, Session Laws of Hawaii (2023) (SB1340 SD2 HD2 CD1 – Relating to the Practice of Behavior Analysis) (“Act 167”). This Act amended the exemption in HRS §465D-7(a), effective July 3, 2023.

Background Information:

The practice of behavior analysis is governed by Hawaii Revised Statutes (HRS) Chapter 465D. HRS Chapter 465D provided exemptions from the licensing requirement. Until Act 167 took effect, 1915(c) Medicaid I/DD Waiver providers who designed or implemented applied behavior analysis (ABA) services to Waiver participants were exempt from the licensing requirement until January 1, 2024, per HRS §465D-7(a)(6).

Changes in Act 167:

- 1) Removes the exemption for Waiver providers who **design** ABA services that do not meet the requirements of a licensed behavior analyst (LBA) or assistant behavior analyst under the LBA's supervision, or a licensed psychologist or supervisee under the psychologist's supervision. Examples of activities to design ABA services include completing the functional behavior assessment (FBA) and developing the positive behavior support (PBS) plan.
- 2) Makes permanent the exemption for those who **implement** ABA services to participants in the 1915(c) Medicaid I/DD Waiver. For example, individuals like direct support workers, caregivers, and family members who implement ABA services to Waiver

participants will not be required to meet licensing requirements in HRS §465D by a future date.

- 3) Expands the exemption for Registered Behavior Technicians (RBTs) who implement ABA services under the direction of a licensed psychologist. For example, the RBT may be supervised by an LBA, or by a licensed psychologist who meets the exemption in HRS Chapter 465D. Note that this change in Hawaii state law does not alter or replace any supervision requirements the RBT must complete in accordance with the Behavior Analyst Certification Board (BACB). The RBT is responsible for ensuring their supervision meets the BACB requirements.

Act 167 can be referenced at:

[https://www.capitol.hawaii.gov/sessions/session2023/bills/SB1340\\_CD1\\_.PDF](https://www.capitol.hawaii.gov/sessions/session2023/bills/SB1340_CD1_.PDF)

If you have any questions, please email the Community Resources Branch at [doh.dddcrb@doh.hawaii.gov](mailto:doh.dddcrb@doh.hawaii.gov) or call (808) 733-2135.

c: Jon Fujii, DHS-MQD  
Victorino Tolentino, DHS-MQD  
DDD Management Team