

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1152

Introduced by

Human Services Committee

(At the request of the Board of Psychologist Examiners)

1 A BILL for an Act to create and enact two new sections to chapter 43-32 of the North Dakota
2 Century Code, relating to registration of psychological associates; and to amend and reenact
3 sections 43-32-01, 43-32-08.1, 43-32-08.2, 43-32-09, 43-32-12, 43-32-13, 43-32-14, 43-32-16,
4 43-32-17, 43-32-21, 43-32-23, 43-32-24, 43-32-26, 43-32-27, 43-32-27.1, 43-32-28.1,
5 43-32-30, and 43-32-32 of the North Dakota Century Code, relating to registration of
6 psychological associates by the board of psychologist examiners.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 43-32-01 of the 1997 Supplement to the North
9 Dakota Century Code is amended and reenacted as follows:

10 **43-32-01. Definitions.**

- 11 1. "Board" means the North Dakota state board of psychologist examiners.
- 12 2. "Practice of psychology" means the observation, description, evaluation,
13 interpretation, or modification of human behavior by the application of
14 psychological principles, methods, and procedures for the purpose of preventing or
15 eliminating symptomatic, maladaptive, or undesired behavior and enhancing
16 interpersonal relationships, work and life adjustment, personal effectiveness,
17 behavioral health, and mental health. The term includes psychological testing and
18 the evaluation or assessment of personal characteristics, such as intelligence,
19 personality, abilities, interests, aptitudes, and neuropsychological functioning;
20 counseling, psychotherapy, and other therapeutic techniques based on
21 psychological principles; diagnosis and treatment of mental and emotional disorder
22 or disability, compulsive disorders, disorders of habit or conduct as well as of the
23 psychological aspects of physical illness, accident, injury, or disability; and
24 psychoeducational evaluation, therapy, remediation, and consultation. The term

includes providing psychological services to individuals, families, groups, and the public regardless of whether payment is received for services rendered.

3. "Psychological associate" means an individual registered under this chapter to practice psychology under the supervision of a psychologist. A psychological associate may practice psychology in the employ of or under contract with any federal, state, county or municipal agency, insofar as the activities and services of the person are a part of the duties of the person's office or position with such agency. A psychological associate may only practice psychology under the supervision of a licensed psychologist and pursuant to rules adopted by the board.

4. "Psychologist" means an individual who is licensed under this chapter in the practice of psychology.

~~4.~~ 5. "Psychology resident" means an individual who has received from an accredited school or college a doctorate degree in a program of study substantially psychological in nature, and who is involved in supervised psychological employment.

~~5.~~ 6. "School or college" means any university or other institution of higher learning that is accredited by a regional accrediting association, offering a full-time graduate course of study in psychology.

SECTION 2. AMENDMENT. Section 43-32-08.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-32-08.1. Continuing education requirements. The board shall adopt rules establishing requirements for the continuing education of psychologists and psychological associates. The board may refuse to renew, suspend, revoke, or place on probationary status any license or registration issued under this chapter if the licensee or registrant fails to meet applicable continuing education requirements. Applicants for accreditation of continuing education courses, classes, or activities may be charged a reasonable fee determined by the board.

SECTION 3. AMENDMENT. Section 43-32-08.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-32-08.2. Continuing education requirements - Renewal. Absent a showing of good cause, the board may not renew a license or registration issued under this chapter without

1 proof the continuing education requirements established by rule of the board have been met. A
2 person whose license or registration is not renewed because of failure to meet the continuing
3 education requirements must be reinstated and the license or registration renewed if, within one
4 year from the date of nonrenewal, the person demonstrates to the secretary of the board the
5 continuing education requirements have been satisfied and pays the renewal fee and a late fee
6 to be determined by rule of the board.

7 **SECTION 4. AMENDMENT.** Section 43-32-09 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-32-09. Examination of qualifications of applicants.** The board shall examine for,
10 deny, approve, revoke, suspend, and renew the licensing or registration of applicants as
11 provided under this chapter.

12 **SECTION 5. AMENDMENT.** Section 43-32-12 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-32-12. Application and license or registration fee.** The application fee for
15 licensing or registration by written and oral examination and by reciprocity must be determined
16 by regulation of the board. No fee is refundable in whole or in part except for failure of the
17 board to hold examinations at the time originally announced, in which event the entire fee must
18 be refunded upon demand by the applicant.

19 **SECTION 6. AMENDMENT.** Section 43-32-13 of the 1997 Supplement to the North
20 Dakota Century Code is amended and reenacted as follows:

21 **43-32-13. Annual license or registration and fee.** Before January first of each year,
22 every licensed psychologist and registered psychological associate in the state shall pay to the
23 secretary of the board an annual license or registration fee determined by the board not to
24 exceed one hundred dollars. The secretary of the board, upon payment of the annual license
25 or registration fee by a person licensed or registered under this chapter, shall issue a certificate
26 of annual license or registration. A person may not hold oneself out as a licensed psychologist
27 or registered psychological associate until the annual license or registration fee is paid. The
28 board ~~shall revoke~~ may deny renewal of the license or registration of a person who violates this
29 section. Annually, the board shall mail a renewal notice to all licensed psychologists and
30 registered psychological associates at the address on file with the board.

SECTION 7. AMENDMENT. Section 43-32-14 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-32-14. Payment of delinquent license or registration fees - Reinstatement. A person who has been a licensed psychologist or registered psychological associate in this state under this chapter and whose license or registration has been revoked for failure to pay the annual license or registration fee must be reinstated and the license or registration renewed if within one year from the date of revocation the person pays to the secretary of the board the amount of the annual license or registration fees in default and a late fee in the amount of twenty dollars.

SECTION 8. AMENDMENT. Section 43-32-16 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-32-16. Board to keep records.

1. The board shall keep a record of its proceedings and a register of all applicants for licensing or registration which must show:
 - a. The name, age, and residence of each applicant.
 - b. The date of each applicant's application.
 - c. The place of business of each applicant.
 - d. A summary of the educational and other qualifications of each applicant.
 - e. Whether an examination was required of an applicant.
 - f. Whether a license or registration was granted to an applicant.
 - g. The date of the action of the board.
 - h. Any information the board determines necessary or advisable in aid of the requirements of this subsection.
2. Except as otherwise provided by law, the records of the board are public records and evidence of the proceedings of the board, and a transcript of board proceedings, duly certified by the secretary of the board, bearing the seal of the board, is admissible in evidence with the same effect as if the original were produced.

SECTION 9. AMENDMENT. Section 43-32-17 of the North Dakota Century Code is amended and reenacted as follows:

1 **43-32-17. License or registration required for practice.** Except as otherwise
2 provided by this chapter, no individual may engage in the practice of psychology ~~or represent~~
3 ~~that individual to be a psychologist~~ in this state after August 1, 1993, unless that individual has
4 obtained from the board a license or registration to do so under this chapter. An individual
5 registered as a psychological associate may only engage in the practice of psychology in
6 association with a licensed psychologist and in accordance with rules adopted by the board. An
7 individual may not use the title psychologist or represent the individual to be a psychologist
8 unless licensed by the board. An individual may not use the title psychological associate or
9 represent that the individual is a psychological associate unless the individual is registered by
10 the board.

11 **SECTION 10. AMENDMENT.** Section 43-32-21 of the 1997 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **43-32-21. Consideration of application and notice to applicant.** Upon investigation
14 of the application and other evidence submitted, the board, not less than thirty days before the
15 examination, shall notify each applicant that the application and evidence submitted for
16 licensing or registration is satisfactory and accepted, or unsatisfactory and rejected. If rejected,
17 the notice must state the reasons for rejection and explain the right to a hearing under chapter
18 28-32, if a hearing is requested within thirty days.

19 **SECTION 11. AMENDMENT.** Section 43-32-23 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-32-23. Scope and grading of examination.** The board shall determine the subject
22 and scope of specialized psychological areas and techniques for examination. Written
23 examinations may be supplemented by such oral examinations as the board may determine.
24 The board shall determine an acceptable level of performance for each examination and a
25 majority decision of the board is required for the issuing of a license or registration. To ensure
26 impartiality, the written examination must be identified by numbers and no paper may be
27 marked in the name of any applicant, but must be anonymously graded by the board.

28 **SECTION 12. AMENDMENT.** Section 43-32-24 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **43-32-24. Notice to applicant of examination results and right to reexamination.**
31 The board shall state in writing its reason for refusal of a license or registration to any applicant

1 who has been so denied. An applicant who fails ~~his~~ the examination may be reexamined at a
2 subsequent examination upon again paying the required examination fee.

3 **SECTION 13. AMENDMENT.** Section 43-32-26 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-32-26. Issuance and display of license or registration.** The board is the sole
6 agency empowered to examine competence in the practice of psychology. Such license
7 certificate or certificate of registration must show the full name of the licensee or registrant,
8 have a serial number and be signed by the president of the board and attested by the secretary
9 under the board's adopted seal. The license or registration issued by the board under the
10 provisions of this chapter must be prominently displayed at the principal place of business
11 where the psychologist or psychological associate practices.

12 **SECTION 14. AMENDMENT.** Section 43-32-27 of the 1997 Supplement to the North
13 Dakota Century Code is amended and reenacted as follows:

14 **43-32-27. Denial - Revocation or suspension of license or registration - Grounds.**

15 1. The board, after notice and hearing and by an affirmative vote of at least a majority
16 of board members, may withhold, deny, revoke, or suspend any psychologist
17 license or psychological associate registration issued or applied for under this
18 chapter, or otherwise discipline a licensed psychologist or registered psychological
19 associate, upon proof the applicant ~~or~~, licensed psychologist, or registered
20 psychological associate:

21 a. Has been convicted of an offense determined by the board to have a direct
22 bearing upon a person's ability to serve the public as a psychologist or a
23 psychological associate, or when the board finds, after the conviction of any
24 offense, that a person is not sufficiently rehabilitated under section
25 12.1-33-02.1.

26 b. Is using any narcotic or alcoholic beverage to an extent or in a manner
27 dangerous to the psychologist or psychological associate, any other person,
28 or the public, or to an extent that the use impairs the psychologist's or
29 psychological associate's ability to perform the work of a professional
30 psychologist with safety to the public.

- c. Has impersonated another person holding a psychology license or registration or allowed another person to use the psychologist's license or registration.
- d. Has used fraud or deception in applying for a license or registration or in taking an examination under this chapter.
- e. Has allowed the psychologist's name or license or registration issued under this chapter to be used in connection with any person who performs psychological services outside of the area of that person's training, experience, or competence.
- f. Is legally adjudicated insane or mentally incompetent. The record of the adjudication is conclusive evidence of that fact.
- g. Has engaged in any form of unethical conduct as defined in "Ethical Principles of Psychologists and Code of Conduct" as adopted and published by the American psychological association, 1992, or revised editions if adopted by the board by rule.
- h. Has become grossly negligent in the practice of the profession.
- i. Has willfully or negligently violated this chapter.
- j. Has engaged in an act in violation of rules adopted by the board.

2. A person whose license or registration has been revoked under this section may reapply for licensing or registration after two years have elapsed from the date of revocation.

SECTION 15. AMENDMENT. Section 43-32-27.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-32-27.1. Complaints - Investigations.

1. A person aggrieved by the actions of ~~a psychologist~~ an individual licensed or registered under this chapter may file a written complaint with the board citing the specific allegations of misconduct by the psychologist or psychological associate. The board shall notify the psychologist or psychological associate of the complaint and request a written response from the psychologist or psychological associate.
2. The board may investigate a complaint on its own motion, without requiring the identity of the complainant to be made a matter of public record, if the board

concludes that good cause exists for preserving the confidentiality of the complainant.

3. A psychologist or psychological associate who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation, and providing copies of patient records when reasonably requested by the board and accompanied by the appropriate release.
4. In order to pursue an investigation, the board may subpoena and examine witnesses and records, including patient records, and copy, photograph, or take samples. The board may require the licensed psychologist or registered psychological associate to give statements under oath, to submit to a physical or psychological examination, or both, by a physician or other qualified evaluation professional selected by the board, if requiring an examination is in the best interest of the public. The patient records released to the board are not public records.
5. Unless a patient release is on file allowing the release of information at the public hearing, patient records acquired by the board in its investigation are confidential and closed to the public. All board meetings at which patient testimony or records are taken or reviewed are confidential and closed to the public. If no patient testimony or records are taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

SECTION 16. AMENDMENT. Section 43-32-28.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-32-28.1. Hearing. All hearings must be conducted pursuant to chapter 28-32. For purposes of a hearing, the licensee, registrant, or applicant is the sole party in interest under section 28-32-08 and section 28-32-05 applies only to the licensee, registrant, or applicant.

SECTION 17. AMENDMENT. Section 43-32-30 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-32-30. Persons exempt from this chapter. This chapter does not apply to:

1 1. ~~Any person in the employ of any federal, state, county or municipal agency, or~~
2 ~~other political subdivision, or any nonprofit corporation or educational institution~~
3 ~~presently chartered by this state, insofar as the activities and services of the~~
4 ~~person are a part of the duties of the person's office or position with such agency,~~
5 ~~nonprofit corporation, or institution. This exemption is not available or effective~~
6 ~~after July 1, 1999. However, the exemption period may be extended by the board~~
7 ~~in individual cases where hardship or other good cause is shown by the agency,~~
8 ~~nonprofit corporation, or institution covered, or where the person affected has~~
9 ~~received from a school or college a master's degree in psychology and the~~
10 ~~person's activities and services with such agency, nonprofit corporation, or~~
11 ~~institution are performed under the supervision of a licensed psychologist. After~~
12 ~~reviewing the exemption under this subsection, the board and the department of~~
13 ~~human services shall review their definitions and rules for a master's degree in~~
14 ~~psychology as used in their own credential requirements.~~

15 2. A student or intern pursuing a course of study in psychology at a school or college,
16 if the activities and services are a part of the person's supervised course of study,
17 provided the student or intern does not use the title "psychologist" and the student
18 or intern status is clearly stated.

19 ~~3.~~ 2. A nonresident licensed or certified in the state of the person's residence who does
20 not practice psychology in this state for a period of more than thirty days in any
21 calendar year.

22 ~~4.~~ 3. A lecturer, from any school or college, who uses an academic or research title
23 when lecturing to institutions or organizations. However, the lecturer may not
24 engage in the practice of psychology unless the lecturer is licensed to practice
25 psychology in this state.

26 ~~5.~~ 4. A person employed by a public school and whose activities and services are
27 restricted to the practice of psychology in the district or service unit of employment.
28 This exemption applies only when the person has received a master's degree in
29 school psychology from an accredited graduate training program. Standards must
30 be established by mutual consent of the board and the superintendent of public
31 instruction.

6- 5. A person certified, licensed, or registered in this state in another health care profession, whose scope of practice is consistent with the accepted standards of that person's profession, and who does not represent to be rendering psychological services.

7- 6. An applicant licensed to practice psychology in another jurisdiction, pending disposition of the applicant's application, if the applicant notifies the board on a form provided by the board of the applicant's intent to practice pending disposition of the application and the applicant adheres to the requirements of this chapter and the rules adopted by the board.

8- 7. A person employed by an agency, nonprofit corporation, or institution who is currently exempt from licensure continues to be exempt until July 1, 2000, if the person continues employment in the same position with the agency, nonprofit corporation, or institution that applied for and received the exemption.

9- 8. A ~~psychologist~~ psychology resident performing services supervised as provided under section 43-32-20.1.

SECTION 18. AMENDMENT. Section 43-32-32 of the North Dakota Century Code is amended and reenacted as follows:

43-32-32. Drugs - Medicine. Nothing in this chapter may be construed as permitting ~~psychologists~~ individuals licensed or registered under this chapter to administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.

SECTION 19. A new section to chapter 43-32 of the North Dakota Century Code is created and enacted as follows:

Registration - Qualifications of applicants. The board shall register as a psychological associate each applicant who files an application upon a form and in a manner the board prescribes, submits the required fee, and demonstrates to the board that the applicant:

1. Will adhere to the American psychological association "Ethical Principles of Psychologists and Code of Conduct", 1992, or revised editions if adopted by the board by rule.

2. Has received from an accredited school or college as defined by this chapter a master's degree in a program of studies substantially psychological in nature.

1 3. Has passed the examinations, written or oral, or both, as the board deems
2 necessary.

3 4. Meets other requirements adopted by the board by rule.

4 **SECTION 20.** A new section to chapter 43-32 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Waiver of registration requirements for master's level psychologists.** From July 1,
7 1999, to July 1, 2000, an applicant for registration as a psychological associate is excused from
8 the education and examination requirements upon satisfactory proof to the board that the
9 applicant is, and has been, engaged in the practice of psychology pursuant to subsection 1 of
10 section 43-32-30.