

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1145
(Human Services Committee)
(At the request of the State Board of Psychologist Examiners)

AN ACT to create and enact a new section to chapter 43-32 of the North Dakota Century Code, relating to licensing of psychologists; to amend and reenact sections 43-32-01, 43-32-08.1, 43-32-13, 43-32-17, 43-32-20, 43-32-20.1, and 43-32-27, subsection 1 of section 43-32-27.1, and section 43-32-30 of the North Dakota Century Code, relating to licensing of psychologists and the practice of psychology; and to repeal section 43-32-19 of the North Dakota Century Code, relating to licensing of psychologists.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-32-01 of the North Dakota Century Code is amended and reenacted as follows:

43-32-01. Definitions.

1. "Board" means the North Dakota state board of psychologist examiners.
2. "Industrial-organizational psychologist" means an individual who is licensed under this chapter to engage in the practice of industrial-organizational psychology.
3. "Industrial-organizational psychology" means the provision of psychological research services or consultation services to a group or an organization. The term does not include the delivery or supervision of services to individuals who are themselves, rather than the group or organization, the intended beneficiaries of the services, regardless of the source or extent of payment for services rendered.
4. "Industrial-organizational psychology resident" means an individual who has met the requirement of subdivision b of subsection 2 of section 43-32-20, is involved in supervised employment in industrial-organizational psychology, and has registered with the board.
5. "Licensee" means an industrial-organizational psychologist or a psychologist.
5. 6. "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The term includes psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychotherapy, biofeedback, behavior analysis and therapy, clinical applications of hypnosis, and other therapeutic techniques based on psychological principles; diagnosis and treatment of mental and emotional disorder or disability, compulsive disorders, disorders of habit or conduct as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. The term includes providing psychological services to individuals, families, groups, organizations, institutions, and the public regardless of whether payment is received for services rendered. The term includes supervising others who are engaged in the practice of psychology.

- 6- 7. "Psychologist" means an individual who is licensed under this chapter in the practice of psychology.
- 7- 8. "Psychology resident" means an individual who has ~~received from a school or college a doctorate degree in a program of study substantially psychological in nature, and who met the requirement of subdivision b of subsection 1 of section 43-32-20, is involved in supervised psychological employment, and has registered with the board.~~
- 8- 9. "School or college" means any university or other institution of higher learning which is accredited by a regional accrediting association, offering a full-time graduate course of study in industrial-organizational psychology or psychology.

SECTION 2. AMENDMENT. Section 43-32-08.1 of 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 licensees, psychology residents, and industrial-organizational psychology residents. The board may refuse to renew, suspend, revoke, or place on probationary status any license issued under this chapter if the licensee 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 43-32-13 of the North Dakota Century Code is amended and reenacted as follows:

43-32-13. Annual license and fee. Before January first of each year, every licensee shall pay to the secretary of the board an annual license fee determined by the board not to exceed one hundred fifty dollars. The secretary of the board, upon receipt of payment of the annual license fee, shall issue the licensee a certificate of annual license. An individual may not hold out as an industrial-organizational psychologist or a psychologist until the annual license fee is paid. The board may deny renewal of the license of an individual who violates this section. Annually, the board shall mail a renewal notice to each licensee at the address on file with the board.

SECTION 4. AMENDMENT. Section 43-32-17 of the North Dakota Century Code is amended and reenacted as follows:

43-32-17. License required for practice - Titles.

1. Except as otherwise provided under this chapter, a person may not engage in the practice of psychology ~~or represent that person to be a psychologist in this state~~ unless that person is an individual who is licensed as a psychologist or is registered as a psychology resident under this chapter. Except as otherwise provided by this chapter, a person may not engage in the practice of industrial-organizational psychology ~~or represent that person to be an industrial-organizational psychologist in this state~~ unless that person is an individual who is licensed as a psychologist or an industrial-organizational psychologist or is registered as a psychology resident or industrial-organizational psychology resident under this chapter.
2. A psychologist person may not use the title "psychologist" or similar title ~~in conjunction with the practice of psychology. An industrial-organizational psychologist unless that person is licensed as a psychologist. A person may not use the title titles "industrial psychologist", "organizational psychologist", or "industrial-organizational psychologist" in conjunction with the practice of industrial-organizational psychology. An industrial-organizational psychologist may not use the title "psychologist" or similar title representing that the individual unless that person is licensed as a psychologist or industrial-organizational psychologist.~~

3. A person may not use the title "psychology resident" or similar title unless that person is registered as a psychology resident. A person may not use the titles "industrial psychology resident", "organizational psychology resident", or "industrial-organizational psychology resident" unless that person is registered as a psychology resident or industrial-organizational psychology resident.

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

Licensing applicant licensed in other jurisdictions. The board may grant a license to an applicant, licensed in good standing in another jurisdiction, who passes the oral examination on the law and rules regulating the practice of psychology and industrial-organizational psychology, and meets one of the following requirements:

1. The applicant is licensed in a jurisdiction that imposes requirements for licensure which are at least as stringent as the requirements imposed in this state.
2. The applicant holds a certificate of professional qualification in psychology issued by the association of state and provincial psychology boards or its successor.

SECTION 6. AMENDMENT. Section 43-32-20 of the North Dakota Century Code is amended and reenacted as follows:

43-32-20. Licensing - Written and oral examination - Qualifications of applicants. The board shall issue a license to 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~~ meets the requirements of subsection 1 or 2.

1. An applicant for licensure as a psychologist shall demonstrate ~~the applicant~~ all of the following:
 - a. ~~Will~~ The applicant 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.~~
 - b. ~~Has~~ The applicant has received, from an accredited a school or college as defined by this chapter a doctorate degree in a program of studies substantially psychological in nature which meets any of the following requirements:
 - (1) The program is accredited by the American psychological association or the Canadian psychological association.
 - (2) The program is designated as a doctoral program in psychology by the association of state and provincial psychology boards.
 - (3) The program is accredited as a doctoral program in psychology by an accrediting body approved by the board by rule.
 - c. ~~Has~~ The applicant has passed the examinations, written, oral, or both, as the board determines necessary.
 - d. ~~Has~~ The applicant has completed at least two full years of supervised professional experience, one year of which must be an internship program, and one year of which ~~must~~ may be postdoctoral. Both years of experience must comply with the board's rules.
2. An applicant for licensure as an industrial-organizational psychologist shall demonstrate ~~the applicant~~ all of the following:

- a. ~~Will~~ The applicant 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.~~
- b. ~~Has~~ The applicant has received, from a school or college, a doctorate degree in a program of studies ~~substantially psychological in nature~~ accredited by the American psychological association or an accrediting body approved by the board by rule.
- c. ~~Has~~ The applicant has passed the examinations, written, oral, or both, as the board determines necessary.
- d. ~~Has~~ The applicant has completed the professional experience requirements established by the board. The requirements may not exceed the professional experience requirements for psychologists. If the professional experience requirements include a supervised experience requirement:
 - (1) The board must allow an applicant to submit to the board a personalized plan for supervised experience which may include distance-supervision by a qualified industrial-organizational psychologist.
 - (2) The board may adopt rules to establish who is qualified to perform supervision, supervision requirements, and reporting.

SECTION 7. AMENDMENT. Section 43-32-20.1 of the North Dakota Century Code is amended and reenacted as follows:

43-32-20.1. Postdoctoral supervised psychological employment. This section applies to postdoctoral supervised ~~psychological~~ employment in the practice of psychology and industrial-organizational psychology. Supervision may only be performed by a psychologist or industrial-organizational psychologist with a competency in supervision in professional psychology in the area of practice being supervised.

Supervision of an applicant for psychologist licensure must include at least two hours of regularly scheduled direct supervision a week for full-time employment, one hour of which must be with the supervisor on a one-to-one basis, ~~either face-to-face or through distance communications.~~ The remaining hour may be with other mental health professionals designated by the supervisor and competent in the area of practice being supervised. ~~The board may approve an exception to the weekly supervision requirement for a week during which the supervisor was ill or otherwise unable to provide supervision.~~ The board may prorate the two hours per week of supervision for individuals preparing for licensure on a part-time basis.

The board may adopt rules regarding postdoctoral psychology and industrial-organizational psychology supervision requirements and reporting.

SECTION 8. AMENDMENT. Section 43-32-27 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The board, after notice, hearing, and an affirmative vote of at least a majority of board members, may withhold, deny, revoke, or suspend any license issued or applied for under this chapter and may otherwise discipline a licensee or an applicant upon proof the applicant or licensee:
 - a. Has been convicted of an offense determined by the board to have a direct bearing upon an individual's ability to serve the public as a psychologist or industrial-organizational psychologist, or if the board finds, after the conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.

- b. ~~Is using any narcotic or alcoholic beverage to an extent or in a manner dangerous to the applicant or licensee, any other person, or the public, or to an extent that the use impairs the applicant's or licensee's ability to perform the practice of psychology or industrial-organizational psychology with safety to the public~~ unable to practice psychology with reasonable skill and safety to clients or patients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.
 - c. Has impersonated another individual holding a psychology or industrial-organizational psychology license or allowed another person to use the licensee's license.
 - d. Has used fraud or deception in applying for a license or in taking an examination under this chapter.
 - e. Has allowed the licensee's name or license 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~~ of the American psychological association, ~~1992, or revised editions if adopted by the board by rule.~~
 - h. Has become grossly negligent in the practice of psychology or industrial-organizational psychology.
 - i. Has willfully or negligently violated this chapter.
 - j. Has engaged in an act in violation of rules adopted by the board.
 - k. Has had a license revoked or suspended or was disciplined in another jurisdiction.
2. An individual whose license has been revoked under this section may not reapply for licensure ~~after for at least two years have elapsed from~~ after the date of revocation.

SECTION 9. AMENDMENT. Subsection 1 of section 43-32-27.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person aggrieved by the actions of a licensee may file a written complaint with the board citing the specific allegations of misconduct by the licensee. The board shall notify the licensee of the complaint and request a written response from the licensee. The board may establish procedural exceptions for processing multiple complaints from the same complainant.

SECTION 10. AMENDMENT. Section 43-32-30 of 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. ~~Any individual in the employ of any federal, state, county, or municipal agency, or other political subdivision, or any nonprofit corporation or educational institution presently chartered by this state, insofar as the activities and services of the individual are a part of the duties of the person's office or position with such agency, nonprofit corporation, or institution. This exemption is not available or effective after July 1, 2001. However, the exemption period may be extended by the board in individual cases if hardship or other good cause is shown by the agency, nonprofit corporation, or institution covered, or if the individual affected has received from a school or college a master's degree in psychology~~

~~and the individual's activities and services with such agency, nonprofit corporation, or institution are performed under the supervision of a psychologist. After reviewing the exemption under this subsection, the board and the department of human services shall review their definitions and rules for a master's degree in psychology as used in their own credential requirements.~~

2. A student or intern pursuing a course of study in psychology or industrial-organizational psychology at a school or college, if the activities and services are a part of the individual's supervised course of study, ~~provided the~~ and are under the supervision of a licensed psychologist or industrial-organizational psychologist. The student or intern ~~does shall~~ not use the title "psychologist" or "industrial-organizational psychologist" and the student or intern status is shall be clearly stated.
- ~~3.~~ 2. A nonresident licensed or certified in the state of the individual's residence who does not practice psychology or industrial-organizational psychology in this state for a period of more than thirty days in any calendar year.
- ~~4.~~ 3. A lecturer, from any school or college, who uses an academic or research title when lecturing to institutions or organizations. However, the lecturer may not engage in the practice of psychology or industrial-organizational psychology unless the lecturer is licensed under this chapter.
- ~~5.~~ 4. An individual employed by a public school if that individual's activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption applies only if the individual has received a master's degree in school psychology from an accredited graduate training program. Standards must be established by mutual consent of the board and the superintendent of public instruction.
- ~~6.~~ 5. A person certified, licensed, or registered in this state in another health care profession, ~~the~~ or as a member of the clergy functioning in a ministerial capacity, whose scope of practice ~~of which~~ is consistent with the accepted standards of that person's profession. A person claiming an exemption under this subsection may not represent to be rendering psychological services.
- ~~7.~~ 6. An applicant licensed to practice psychology or industrial-organizational psychology in another jurisdiction, pending disposition of the applicant's application in this state, 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, a nonprofit corporation, or an institution if that person is currently exempt from licensure. A person exempt under this subsection continues to be exempt if the person continues employment in the same position with the agency, nonprofit corporation, or institution that applied for and received the exemption.
- ~~9.~~ A psychology resident performing services supervised as provided under section 43-32-20.1.

SECTION 11. REPEAL. Section 43-32-19 of the North Dakota Century Code is repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1145.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State