

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED 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

- 1 includes providing psychological services to individuals, families, groups, and the
2 public regardless of whether payment is received for services rendered.
- 3 3. "Psychological associate" means an individual registered under this chapter to
4 practice psychology under the supervision of a psychologist. A psychological
5 associate may practice psychology in the employ of any federal, state, county, or
6 municipal agency or a nonprofit agency under contract with any federal, state,
7 county, or municipal agency, insofar as the activities and services of the person
8 are a part of the duties of the person's office or position with such agency or are
9 related to the contract with that agency. A psychological associate may only
10 practice psychology under the supervision of a licensed psychologist and pursuant
11 to rules adopted by the board.
- 12 4. "Psychologist" means an individual who is licensed under this chapter in the
13 practice of psychology.
- 14 ~~4.~~ 5. "Psychology resident" means an individual who has received from an accredited
15 school or college a doctorate degree in a program of study substantially
16 psychological in nature, and who is involved in supervised psychological
17 employment.
- 18 ~~5.~~ 6. "School or college" means any university or other institution of higher learning that
19 is accredited by a regional accrediting association, offering a full-time graduate
20 course of study in psychology.

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

23 **43-32-08.1. Continuing education requirements.** The board shall adopt rules
24 establishing requirements for the continuing education of psychologists and psychological
25 associates. The board may refuse to renew, suspend, revoke, or place on probationary status
26 any license or registration issued under this chapter if the licensee or registrant fails to meet
27 applicable continuing education requirements. Applicants for accreditation of continuing
28 education courses, classes, or activities may be charged a reasonable fee determined by the
29 board.

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

1 **43-32-08.2. Continuing education requirements - Renewal.** Absent a showing of
2 good cause, the board may not renew a license or registration issued under this chapter
3 without proof the continuing education requirements established by rule of the board have been
4 met. A person whose license or registration is not renewed because of failure to meet the
5 continuing education requirements must be reinstated and the license or registration renewed
6 if, within one year from the date of nonrenewal, the person demonstrates to the secretary of the
7 board the continuing education requirements have been satisfied and pays the renewal fee and
8 a late fee to be determined by rule of the board.

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

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

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

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

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

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

1 section. Annually, the board shall mail a renewal notice to all licensed psychologists and
2 registered psychological associates at the address on file with the board.

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

5 **43-32-14. Payment of delinquent license or registration fees - Reinstatement.** A
6 person who has been a licensed psychologist or registered psychological associate in this state
7 under this chapter and whose license or registration has been revoked for failure to pay the
8 annual license or registration fee must be reinstated and the license or registration renewed if
9 within one year from the date of revocation the person pays to the secretary of the board the
10 amount of the annual license or registration fees in default and a late fee in the amount of
11 twenty dollars.

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

14 **43-32-16. Board to keep records.**

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

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

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

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

15 **43-32-21. Consideration of application and notice to applicant.** Upon investigation
16 of the application and other evidence submitted, the board, not less than thirty days before the
17 examination, shall notify each applicant that the application and evidence submitted for
18 licensing or registration is satisfactory and accepted, or unsatisfactory and rejected. If rejected,
19 the notice must state the reasons for rejection and explain the right to a hearing under chapter
20 28-32, if a hearing is requested within thirty days.

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

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

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

1 **43-32-24. Notice to applicant of examination results and right to reexamination.**

2 The board shall state in writing its reason for refusal of a license or registration to any applicant
3 who has been so denied. An applicant who fails ~~his~~ the examination may be reexamined at a
4 subsequent examination upon again paying the required examination fee.

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

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

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

16 **43-32-27. Denial - Revocation or suspension of license or registration - Grounds.**

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

23 a. Has been convicted of an offense determined by the board to have a direct
24 bearing upon a person's ability to serve the public as a psychologist or a
25 psychological associate, or when the board finds, after the conviction of any
26 offense, that a person is not sufficiently rehabilitated under section
27 12.1-33-02.1.

28 b. Is using any narcotic or alcoholic beverage to an extent or in a manner
29 dangerous to the psychologist or psychological associate, any other person,
30 or the public, or to an extent that the use impairs the psychologist's or

- 1 psychological associate's ability to perform the work of a professional
2 psychologist with safety to the public.
- 3 c. Has impersonated another person holding a psychology license or
4 registration or allowed another person to use the psychologist's license or
5 registration.
- 6 d. Has used fraud or deception in applying for a license or registration or in
7 taking an examination under this chapter.
- 8 e. Has allowed the psychologist's name or license or registration issued under
9 this chapter to be used in connection with any person who performs
10 psychological services outside of the area of that person's training,
11 experience, or competence.
- 12 f. Is legally adjudicated insane or mentally incompetent. The record of the
13 adjudication is conclusive evidence of that fact.
- 14 g. Has engaged in any form of unethical conduct as defined in "Ethical
15 Principles of Psychologists and Code of Conduct" as adopted and published
16 by the American psychological association, 1992, or revised editions if
17 adopted by the board by rule.
- 18 h. Has become grossly negligent in the practice of the profession.
- 19 i. Has willfully or negligently violated this chapter.
- 20 j. Has engaged in an act in violation of rules adopted by the board.
- 21 2. A person whose license or registration has been revoked under this section may
22 reapply for licensing or registration after two years have elapsed from the date of
23 revocation.

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

26 **43-32-27.1. Complaints - Investigations.**

- 27 1. A person aggrieved by the actions of ~~a psychologist~~ an individual licensed or
28 registered under this chapter may file a written complaint with the board citing the
29 specific allegations of misconduct by the psychologist or psychological associate.
30 The board shall notify the psychologist or psychological associate of the complaint
31 and request a written response from the psychologist or psychological associate.

- 1 2. The board may investigate a complaint on its own motion, without requiring the
2 identity of the complainant to be made a matter of public record, if the board
3 concludes that good cause exists for preserving the confidentiality of the
4 complainant.
- 5 3. A psychologist or psychological associate who is the subject of an investigation by
6 the board shall cooperate fully with the investigation. Cooperation includes
7 responding fully and promptly to any reasonable question raised by or on behalf of
8 the board relating to the subject of the investigation, and providing copies of
9 patient records when reasonably requested by the board and accompanied by the
10 appropriate release.
- 11 4. In order to pursue an investigation, the board may subpoena and examine
12 witnesses and records, including patient records, and copy, photograph, or take
13 samples. The board may require the licensed psychologist or registered
14 psychological associate to give statements under oath, to submit to a physical or
15 psychological examination, or both, by a physician or other qualified evaluation
16 professional selected by the board, if requiring an examination is in the best
17 interest of the public. The patient records released to the board are not public
18 records.
- 19 5. Unless a patient release is on file allowing the release of information at the public
20 hearing, patient records acquired by the board in its investigation are confidential
21 and closed to the public. All board meetings at which patient testimony or records
22 are taken or reviewed are confidential and closed to the public. If no patient
23 testimony or records are taken or reviewed, the remainder of the meeting is an
24 open meeting unless a specific exemption is otherwise applicable.

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

27 **43-32-28.1. Hearing.** All hearings must be conducted pursuant to chapter 28-32. For
28 purposes of a hearing, the licensee, registrant, or applicant is the sole party in interest under
29 section 28-32-08 and section 28-32-05 applies only to the licensee, registrant, or applicant.

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

- 1 **43-32-30. Persons exempt from this chapter.** This chapter does not apply to:
- 2 1. ~~Any person in the employ of any federal, state, county or municipal agency, or~~
- 3 ~~other political subdivision, or any nonprofit corporation or educational institution~~
- 4 ~~presently chartered by this state, insofar as the activities and services of the~~
- 5 ~~person are a part of the duties of the person's office or position with such agency,~~
- 6 ~~nonprofit corporation, or institution. This exemption is not available or effective~~
- 7 ~~after July 1, 1999. However, the exemption period may be extended by the board~~
- 8 ~~in individual cases where hardship or other good cause is shown by the agency,~~
- 9 ~~nonprofit corporation, or institution covered, or where the person affected has~~
- 10 ~~received from a school or college a master's degree in psychology and the~~
- 11 ~~person's activities and services with such agency, nonprofit corporation, or~~
- 12 ~~institution are performed under the supervision of a licensed psychologist. After~~
- 13 ~~reviewing the exemption under this subsection, the board and the department of~~
- 14 ~~human services shall review their definitions and rules for a master's degree in~~
- 15 ~~psychology as used in their own credential requirements.~~
- 16 2. A student or intern pursuing a course of study in psychology at a school or college,
- 17 if the activities and services are a part of the person's supervised course of study,
- 18 provided the student or intern does not use the title "psychologist" and the student
- 19 or intern status is clearly stated.
- 20 ~~3.~~ 2. A nonresident licensed or certified in the state of the person's residence who does
- 21 not practice psychology in this state for a period of more than thirty days in any
- 22 calendar year.
- 23 ~~4.~~ 3. A lecturer, from any school or college, who uses an academic or research title
- 24 when lecturing to institutions or organizations. However, the lecturer may not
- 25 engage in the practice of psychology unless the lecturer is licensed to practice
- 26 psychology in this state.
- 27 ~~5.~~ 4. A person employed by a public school and whose activities and services are
- 28 restricted to the practice of psychology in the district or service unit of employment.
- 29 This exemption applies only when the person has received a master's degree in
- 30 school psychology from an accredited graduate training program. Standards must

1 be established by mutual consent of the board and the superintendent of public
2 instruction.

3 ~~6-~~ 5. A person certified, licensed, or registered in this state in another health care
4 profession, whose scope of practice is consistent with the accepted standards of
5 that person's profession, and who does not represent to be rendering
6 psychological services.

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

12 ~~8-~~ 7. A person employed by an agency, nonprofit corporation, or institution who is
13 currently exempt from licensure continues to be exempt until July 1, 2000, if the
14 person continues employment in the same position with the agency, nonprofit
15 corporation, or institution that applied for and received the exemption.

16 ~~9-~~ 8. A ~~psychologist~~ psychology resident performing services supervised as provided
17 under section 43-32-20.1.

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

20 **43-32-32. Drugs - Medicine.** Nothing in this chapter may be construed as permitting
21 ~~psychologists~~ individuals licensed or registered under this chapter to administer or prescribe
22 drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.

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

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

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

- 1 2. Has received from an accredited school or college as defined by this chapter a
- 2 master's degree in a program of studies substantially psychological in nature.
- 3 3. Has passed the examinations, written or oral, or both, as the board deems
- 4 necessary.
- 5 4. Meets other requirements adopted by the board by rule.

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

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