

**FIRST ENGROSSMENT  
with Senate Amendments**

Fifty-ninth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1439**

Introduced by

Representatives Wrangham, DeKrey, Weisz

Senators Klein, J. Lee, Wardner

1 A BILL for an Act to amend and reenact sections 43-32-01, 43-32-03, 43-32-07, 43-32-08,  
2 43-32-08.1, 43-32-08.2, 43-32-12, 43-32-13, 43-32-14, 43-32-17, 43-32-19, 43-32-20,  
3 43-32-20.1, 43-32-23, 43-32-25, 43-32-26, 43-32-27, 43-32-27.1, 43-32-30, and 43-32-32 of  
4 the North Dakota Century Code, relating to North Dakota state board of psychologist examiners  
5 licensure of industrial-organizational psychologists; to provide a penalty; and to provide an  
6 effective date.

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

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

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

- 11 1. "Board" means the North Dakota state board of psychologist examiners.
- 12 2. "Industrial-organizational psychologist" means an individual who is licensed under  
13 this chapter to engage in the practice of industrial-organizational psychology.
- 14 3. "Industrial-organizational psychology" means the provision of psychological  
15 research services or consultation services to a group or an organization. The term  
16 does not include the delivery or supervision of services to individuals who are  
17 themselves, rather than the group or organization, the intended beneficiaries of the  
18 services, regardless of the source or extent of payment for services rendered.
- 19 4. "Licensee" means an industrial-organizational psychologist or a psychologist.
- 20 5. "Practice of psychology" means the observation, description, evaluation,  
21 interpretation, or modification of human behavior by the application of  
22 psychological principles, methods, and procedures for the purpose of preventing or  
23 eliminating symptomatic, maladaptive, or undesired behavior and enhancing  
24 interpersonal relationships, work and life adjustment, personal effectiveness,

1 behavioral health, and mental health. The term includes psychological testing and  
2 the evaluation or assessment of personal characteristics, such as intelligence,  
3 personality, abilities, interests, aptitudes, and neuropsychological functioning;  
4 counseling, psychotherapy, and other therapeutic techniques based on  
5 psychological principles; diagnosis and treatment of mental and emotional disorder  
6 or disability, compulsive disorders, disorders of habit or conduct as well as of the  
7 psychological aspects of physical illness, accident, injury, or disability; and  
8 psychoeducational evaluation, therapy, remediation, and consultation. The term  
9 includes providing psychological services to individuals, families, groups, and the  
10 public regardless of whether payment is received for services rendered.

11 ~~3.~~ 6. "Psychologist" means an individual who is licensed under this chapter in the  
12 practice of psychology.

13 ~~4.~~ 7. "Psychology resident" means an individual who has received from ~~an accredited~~ a  
14 school or college a doctorate degree in a program of study substantially  
15 psychological in nature, and who is involved in supervised psychological  
16 employment.

17 ~~5.~~ 8. "School or college" means any university or other institution of higher learning ~~that~~  
18 which is accredited by a regional accrediting association, offering a full-time  
19 graduate course of study in industrial-organizational psychology or psychology.

20 **SECTION 2. AMENDMENT.** Section 43-32-03 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **43-32-03. Tenure of members - Vacancies and oath of office.** The term of office of  
23 each member of the board is three years and until a successor is appointed and qualified. The  
24 governor shall fill all vacancies by appointment. In case of a vacancy before the expiration of a  
25 term, the appointment must be for the remainder of the term only. ~~A person~~ An individual  
26 appointed to the board qualifies by taking the oath required of civil officers.

27 **SECTION 3. AMENDMENT.** Section 43-32-07 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **43-32-07. Meetings of board - Seal of board.** The board shall hold at least one  
30 regular meeting each year. Additional meetings may be held upon call of the president or at

1 the written request of the governor or of any two members of the board. The meetings must be  
2 held at such places as the board may designate. The board ~~shall~~ must have a seal.

3 **SECTION 4. AMENDMENT.** Section 43-32-08 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **43-32-08. Rules and regulations.** The board may, ~~from time to time,~~ adopt ~~such~~ rules  
6 ~~and regulations not inconsistent with law,~~ as may be necessary to enable it the board to carry  
7 into effect the provisions of this chapter, ~~which.~~ The rules may include a code of ethics for  
8 ~~psychologists in the state~~ licensees. The board shall adopt rules defining what programs of  
9 study are substantially psychological in nature; what educational programs are acceptable for  
10 the licensing of psychologists; and what educational programs are acceptable for the licensing  
11 of industrial-organizational psychologists. The educational program rules for  
12 industrial-organizational psychologists must take into account the availability of professionally  
13 accredited programs in the field of industrial-organizational psychology.

14 **SECTION 5. AMENDMENT.** Section 43-32-08.1 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **43-32-08.1. Continuing education requirements.** The board shall adopt rules  
17 establishing requirements for the continuing education of ~~psychologists~~ licensees. The board  
18 may refuse to renew, suspend, revoke, or place on probationary status any license issued  
19 under this chapter if the licensee fails to meet applicable continuing education requirements.  
20 Applicants for accreditation of continuing education courses, classes, or activities may be  
21 charged a reasonable fee determined by the board.

22 **SECTION 6. AMENDMENT.** Section 43-32-08.2 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **43-32-08.2. Continuing education requirements - Renewal.** Absent a showing of  
25 good cause, the board may not renew a license issued under this chapter without proof the  
26 continuing education requirements ~~established by rule of the board~~ under section 43-32-08.1  
27 ~~have been met.~~ A person An individual whose license is not renewed because of failure to  
28 meet the continuing education requirements must be reinstated and the license renewed if,  
29 within one year from the date of nonrenewal, the ~~person~~ individual demonstrates to the  
30 secretary of the board the continuing education requirements have been satisfied ~~and,~~ and pays the  
31 renewal fee, and pays a late fee to be determined by rule of the board.

1           **SECTION 7. AMENDMENT.** Section 43-32-12 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **43-32-12. Application and license fee.** The board shall adopt rules establishing the  
4 amount of the application fee for licensing licensure by written and oral examination and by  
5 reciprocity ~~must be determined by regulation of the board.~~ No A fee is not refundable, in whole  
6 or in part, except for failure of the board to hold examinations at the time originally announced,  
7 in which event the entire fee must be refunded upon demand by the applicant.

8           **SECTION 8. AMENDMENT.** Section 43-32-13 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10          **43-32-13. Annual license and fee.** Before January first of each year, every licensed  
11 ~~psychologist in the state licensee~~ shall pay to the secretary of the board an annual license fee  
12 determined by the board not to exceed one hundred dollars. The secretary of the board, upon  
13 receipt of payment of the annual license fee by a person licensed under this chapter, shall  
14 issue the licensee a certificate of annual license. ~~A person~~ An individual may not hold out as  
15 an industrial-organizational psychologist or a licensed psychologist until the annual license fee  
16 is paid. The board may deny renewal of the license of ~~a person~~ an individual who violates this  
17 section. Annually, the board shall mail a renewal notice to ~~all licensed psychologists~~ each  
18 licensee at the address on file with the board.

19          **SECTION 9. AMENDMENT.** Section 43-32-14 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21          **43-32-14. Payment of delinquent license fees - Reinstatement.** ~~A person who has~~  
22 ~~been a licensed psychologist in this state~~ An individual whose license issued under this chapter  
23 ~~and whose license has been~~ was revoked for failure to pay the annual license fee must be  
24 reinstated and the license renewed if, within one year from the date of revocation, the ~~person~~  
25 individual pays to the secretary of the board the amount of the annual license fees in default  
26 and a late fee in the amount of twenty dollars.

27          **SECTION 10. AMENDMENT.** Section 43-32-17 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29          **43-32-17. License required for practice - Titles.**

30          1. Except as otherwise provided by under this chapter, ~~no individual~~ a person may  
31 not engage in the practice of psychology or represent that individual person to be

1 a psychologist in this state ~~after August 1, 1993~~, unless that person is an individual  
2 ~~has obtained from the board a license to do so~~ who is licensed as a psychologist  
3 under this chapter. Except as otherwise provided by this chapter, a person may  
4 not engage in the practice of industrial-organizational psychology or represent that  
5 person to be an industrial-organizational psychologist in this state unless that  
6 person is an individual who is licensed as a psychologist or an  
7 industrial-organizational psychologist under this chapter.

8 2. A psychologist may use the title "psychologist" or similar title in conjunction with  
9 the practice of psychology. An industrial-organizational psychologist may use the  
10 title "industrial psychologist", "organizational psychologist", or  
11 "industrial-organizational psychologist" in conjunction with the practice of  
12 industrial-organizational psychology. An industrial-organizational psychologist may  
13 not use the title "psychologist" or similar title representing that the individual is  
14 licensed as a psychologist.

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

17 **43-32-19. Licensing of ~~psychologists~~ applicants from other states.** Upon receipt  
18 of an application accompanied by the required fee, the board, ~~without written or oral~~  
19 ~~examination~~, may issue a license to any ~~person~~ individual who at the time of application  
20 furnishes evidence satisfactory to the board that the applicant is licensed or certified as a  
21 psychologist or industrial-organizational psychologist by a similar board of another state ~~whose~~  
22 ~~the standards, in the opinion of which~~ the board, determines are not lower than those required  
23 by under this chapter.

24 **SECTION 12. AMENDMENT.** Section 43-32-20 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **43-32-20. Licensing - Written and oral examination - Qualifications of applicants.**

27 The board shall issue a license to each applicant who files an application upon a form and in a  
28 manner the board prescribes, submits the required fee, and demonstrates to the board that the  
29 applicant: meets the requirements of subsection 1 or 2.

30 1. An applicant for licensure as a psychologist shall demonstrate the applicant:

- 1           a. Will adhere to the American psychological association ethical principles of  
2           psychologists and code of conduct, 1992, or revised editions if adopted by the  
3           board by rule.
- 4           ~~2.~~ b. Has received from an accredited school or college as defined by this chapter  
5           a doctorate degree in a program of studies substantially psychological in  
6           nature.
- 7           ~~3.~~ c. Has passed the examinations, written ~~or~~, oral, or both, as the board ~~deems~~  
8           determines necessary.
- 9           ~~4.~~ d. Has completed at least two full years of supervised professional experience,  
10           one year of which must be an internship program, and one year of which must  
11           be postdoctoral. Both years of experience must comply with the board's  
12           rules.
- 13          2. An applicant for licensure as an industrial-organizational psychologist shall  
14          demonstrate the applicant:
- 15          a. Will adhere to the American psychological association ethical principles of  
16          psychologists and code of conduct, 1992, or revised editions if adopted by the  
17          board by rule.
- 18          b. Has received from a school or college a doctorate degree in a program of  
19          studies substantially psychological in nature.
- 20          c. Has passed the examinations, written, oral, or both, as the board determines  
21          necessary.
- 22          d. Has completed the professional experience requirements established by the  
23          board. The requirements may not exceed the professional experience  
24          requirements for psychologists. If the professional experience requirements  
25          include a supervised experience requirement:
- 26                (1) The board must allow an applicant to submit to the board a  
27                personalized plan for supervised experience which may include  
28                distance-supervision by a qualified industrial-organizational  
29                psychologist.
- 30                (2) The board may adopt rules to establish who is qualified to perform  
31                supervision, supervision requirements, and reporting.

1           **SECTION 13. AMENDMENT.** Section 43-32-20.1 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **43-32-20.1. Postdoctoral supervised psychological employment.**

4           ~~1.~~ This section applies to postdoctoral supervised psychological employment.

5           Supervision may only be performed by a ~~licensed~~ psychologist with a competency  
6 in supervision in professional psychology in the area of practice being supervised.

7           ~~2.~~ Supervision of an applicant for psychologist licensure ~~as a licensed psychologist~~  
8 must include at least two hours of regularly scheduled direct supervision a week  
9 for full-time employment, one hour of which must be with the supervisor on a  
10 one-to-one basis. The remaining hour may be with other mental health  
11 professionals designated by the supervisor. The board may approve an exception  
12 to the weekly supervision requirement for a week ~~when~~ during which the  
13 supervisor was ill or otherwise unable to provide supervision. The board may  
14 prorate the two hours per week of supervision for ~~persons~~ individuals preparing for  
15 licensure on a part-time basis.

16           ~~3.~~ The board may adopt rules regarding postdoctoral psychology supervision  
17 requirements and reporting.

18           **SECTION 14. AMENDMENT.** Section 43-32-23 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **43-32-23. Scope and grading of examination.** The board shall determine the subject  
21 and scope of specialized psychological areas and techniques for examination. Written  
22 examinations may be supplemented by ~~such~~ oral examinations as the board may determine  
23 necessary. The board shall determine an acceptable level of performance for each  
24 examination and a majority decision of the board is required for the issuing of a license. ~~To~~  
25 ~~ensure impartiality, the written examination must be identified by numbers and no paper may~~  
26 ~~be marked in the name of any applicant, but must be anonymously graded by the board.~~

27           **SECTION 15. AMENDMENT.** Section 43-32-25 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29           **43-32-25. Retention of examination records.** The board shall keep the written  
30 examination ~~papers and~~ score report, an accurate recording of the questions and answers  
31 relating to the oral examinations, and the grade assigned to each answer thereof as a part of its

1 the board's records for at least two years ~~subsequent to~~ following the date of the examination.  
2 In addition, the board shall keep a permanent record of all written examination score reports.

3 **SECTION 16. 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.** The board is the sole agency  
6 empowered to examine competence in the practice of psychology. ~~Such~~ A license certificate  
7 issued by the board must show the full name of the licensee, have a serial number ~~and~~, be  
8 signed by the president of the board, and be attested by the secretary under the board's  
9 adopted seal. The license issued by the board under ~~the provisions of~~ this chapter must be  
10 prominently displayed at the principal place of business ~~where~~ at which the ~~psychologist~~  
11 licensee practices.

12 **SECTION 17. AMENDMENT.** Section 43-32-27 of the North Dakota Century Code is  
13 amended and reenacted as follows:

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

- 15 1. The board, after notice ~~and~~, hearing, and ~~by~~ an affirmative vote of at least a  
16 majority of board members, may withhold, deny, revoke, or suspend any  
17 ~~psychologist~~ license issued or applied for under this chapter, ~~or~~ and may otherwise  
18 discipline a ~~licensed psychologist, licensee or an applicant~~ upon proof the  
19 applicant or ~~licensed psychologist licensee~~ licensee:
- 20 a. Has been convicted of an offense determined by the board to have a direct  
21 bearing upon ~~a person's~~ an individual's ability to serve the public as a  
22 psychologist or industrial-organizational psychologist, or ~~when~~ if the board  
23 finds, after the conviction of any offense, that ~~a person~~ an individual is not  
24 sufficiently rehabilitated under section 12.1-33-02.1.
- 25 b. Is using any narcotic or alcoholic beverage to an extent or in a manner  
26 dangerous to the ~~psychologist~~ applicant or licensee, any other person, or the  
27 public, or to an extent that the use impairs the ~~psychologist's~~ applicant's or  
28 licensee's ability to perform the ~~work of a professional psychologist practice of~~  
29 psychology or industrial-organizational psychology with safety to the public.

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

23 **SECTION 18. AMENDMENT.** Section 43-32-27.1 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **43-32-27.1. Complaints - Investigations.**

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

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

26           **SECTION 19. AMENDMENT.** Section 43-32-30 of the North Dakota Century Code is  
27    amended and reenacted as follows:

28           **43-32-30. Persons exempt from this chapter.** This chapter does not apply to:

- 29           1.    Any ~~person~~ individual in the employ of any federal, state, county or municipal  
30           agency, or other political subdivision, or any nonprofit corporation or educational  
31           institution presently chartered by this state, insofar as the activities and services of

- 1           the ~~person~~ individual are a part of the duties of the person's office or position with  
2           such agency, nonprofit corporation, or institution. This exemption is not available  
3           or effective after July 1, 2001. However, the exemption period may be extended  
4           by the board in individual cases where hardship or other good cause is shown by  
5           the agency, nonprofit corporation, or institution covered, or where the ~~person~~  
6           individual affected has received from a school or college a master's degree in  
7           psychology and the ~~person's~~ individual's activities and services with such agency,  
8           nonprofit corporation, or institution are performed under the supervision of a  
9           licensed psychologist. After reviewing the exemption under this subsection, the  
10          board and the department of human services shall review their definitions and  
11          rules for a master's degree in psychology as used in their own credential  
12          requirements.
- 13          2. A student or intern pursuing a course of study in psychology or  
14          industrial-organizational psychology at a school or college, if the activities and  
15          services are a part of the ~~person's~~ individual's supervised course of study,  
16          provided the student or intern does not use the title "psychologist" or  
17          "industrial-organizational psychologist" and the student or intern status is clearly  
18          stated.
- 19          3. A nonresident licensed or certified in the state of the ~~person's~~ individual's  
20          residence who does not practice psychology or industrial-organizational  
21          psychology in this state for a period of more than thirty days in any calendar year.
- 22          4. 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 or industrial-organizational psychology unless  
25          the lecturer is licensed ~~to practice psychology in this state~~ under this chapter.
- 26          5. ~~A person~~ An individual employed by a public school ~~and whose~~ if that individual's  
27          activities and services are restricted to the practice of psychology in the district or  
28          service unit of employment. This exemption applies only ~~when~~ if the ~~person~~  
29          individual has received a master's degree in school psychology from an accredited  
30          graduate training program. Standards must be established by mutual consent of  
31          the board and the superintendent of public instruction.

- 1           6. A person certified, licensed, or registered in this state in another health care  
2           profession, ~~whose~~ the scope of practice of which is consistent with the accepted  
3           standards of that person's profession ~~and who does~~. A person claiming an  
4           exemption under this subsection may not represent to be rendering psychological  
5           services.
- 6           7. An applicant licensed to practice psychology or industrial-organizational  
7           psychology in another jurisdiction, pending disposition of the applicant's application  
8           in this state, if the applicant notifies the board on a form provided by the board of  
9           the applicant's intent to practice pending disposition of the application and the  
10          applicant adheres to the requirements of this chapter and the rules adopted by the  
11          board.
- 12          8. A person employed by an agency, a nonprofit corporation, or an institution ~~who~~ if  
13          that person is currently exempt from licensure. A person exempt under this  
14          subsection continues to be exempt if the person continues employment in the  
15          same position with the agency, nonprofit corporation, or institution that applied for  
16          and received the exemption.
- 17          9. A ~~psychologist~~ psychology resident performing services supervised as provided  
18          under section 43-32-20.1.

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

21           **43-32-32. Drugs - Medicine.** ~~Nothing in this~~ This chapter may not be construed as  
22   permitting ~~psychologists licensed under this chapter~~ a licensee to administer or prescribe  
23   drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.

24           **SECTION 21. EFFECTIVE DATE.** Section 10 of this Act becomes effective on  
25   January 1, 2006.