

SENATE BILL NO. 2155

Introduced by

Senator J. Lee

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 certification of applied behavior analysts; and to amend and reenact
3 section 43-32-01 of the North Dakota Century Code, relating to definitions related to the state
4 board of psychologist examiners.

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

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

8 **43-32-01. Definitions.**

- 9 1. "Applied behavior analysis" means the design, implementation, and evaluation of
10 environmental modifications, using behavioral stimuli and consequences, to produce
11 socially significant improvement in human behavior, including the use of direct
12 observation, measurement, and functional analysis of the relationship between
13 environment and behavior.
- 14 2. "Board" means the North Dakota state board of psychologist examiners.
- 15 ~~2-3.~~ "Industrial-organizational psychologist" means an individual who is licensed under this
16 chapter to engage in the practice of industrial-organizational psychology.
- 17 ~~3-4.~~ "Industrial-organizational psychology" means the provision of psychological research
18 services or consultation services to a group or an organization. The term does not
19 include the delivery or supervision of services to individuals who are themselves,
20 rather than the group or organization, the intended beneficiaries of the services,
21 regardless of the source or extent of payment for services rendered.
- 22 ~~4-5.~~ "Industrial-organizational psychology resident" means an individual who has met the
23 requirement of subdivision b of subsection 2 of section 43-32-20, is involved in

1 supervised employment in industrial-organizational psychology, and has registered
2 with the board.

3 ~~5-6.~~ "Licensee" means an industrial-organizational psychologist or a psychologist.

4 ~~6-7.~~ "Practice of applied behavior analysis" means the application of the principles,
5 methods, and procedures of the experimental analysis of behavior and applied
6 behavior analysis, including applications of those principles, methods, and procedures
7 to design, implement, evaluate, and modify treatment programs to change the
8 behavior of individuals diagnosed with an autism spectrum disorder; design,
9 implement, evaluate, and modify treatment programs to change the behavior of
10 individuals; design, implement, evaluate, and modify treatment programs to change
11 the behavior of groups; and consult with individuals and organizations. The term does
12 not include diagnosis, counseling, psychological testing, neuropsychology,
13 psychotherapy, cognitive therapy, sex therapy, psychoanalysis, or hypnotherapy as
14 treatment modalities.

15 8. "Practice of psychology" means the observation, description, evaluation, interpretation,
16 or modification of human behavior by the application of psychological principles,
17 methods, and procedures for the purpose of preventing or eliminating symptomatic,
18 maladaptive, or undesired behavior and enhancing interpersonal relationships, work
19 and life adjustment, personal effectiveness, behavioral health, and mental health. The
20 term includes psychological testing and the evaluation or assessment of personal
21 characteristics, such as intelligence, personality, abilities, interests, aptitudes, and
22 neuropsychological functioning; counseling, psychotherapy, biofeedback, behavior
23 analysis and therapy, clinical applications of hypnosis, and other therapeutic
24 techniques based on psychological principles; diagnosis and treatment of mental and
25 emotional disorder or disability, compulsive disorders, disorders of habit or conduct as
26 well as of the psychological aspects of physical illness, accident, injury, or disability;
27 and psychoeducational evaluation, therapy, remediation, and consultation. The term
28 includes providing psychological services to individuals, families, groups,
29 organizations, institutions, and the public regardless of whether payment is received
30 for services rendered. The term includes supervising others who are engaged in the
31 practice of psychology.

1 ~~7.9.~~ "Psychologist" means an individual who is licensed under this chapter in the practice
2 of psychology.

3 ~~8.10.~~ "Psychology resident" means an individual who has met the requirement of
4 subdivision b of subsection 1 of section 43-32-20, is involved in supervised
5 psychological employment, and has registered with the board.

6 ~~9.11.~~ "School or college" means any university or other institution of higher learning which is
7 accredited by a regional accrediting association, offering a full-time graduate course of
8 study in industrial-organizational psychology ~~or, psychology, or applied behavior~~
9 analysis, as appropriate.

10 **SECTION 2.** A new section to chapter 43-32 of the North Dakota Century Code is created
11 and enacted as follows:

12 **Applied behavior analysis - Certification required - Titles - Exemptions.**

- 13 1. Unless certified as an applied behavior analyst under this chapter, a person may not:
14 a. Engage in the practice of applied behavior analysis or render services designated
15 as applied behavior analysis or hold out as a practitioner of applied behavior
16 analysis in this state; or
17 b. Use the title "certified applied behavior analyst" or any title that is substantially
18 the same unless certified by the board under this chapter.
- 19 2. The certification requirement of subdivision a of subsection 1 does not apply to an
20 individual who is:
21 a. Providing applied behavior analysis services to an individual in a public school
22 setting;
23 b. Implementing applied behavior analysis services to an immediate family member;
24 c. A student or intern pursuing a course of study in applied behavior analysis at a
25 school or college if the activities and services are part of the individual's
26 supervised course of study and are under the supervision of a licensed
27 psychologist or certified applied behavior analyst.
28 d. A nonresident licensed or certified in the state of the individual's residence who
29 does not practice applied behavior analysis in this state for a period of more than
30 thirty days in any calendar year;

1 e. An individual certified, licensed, or registered in this state in another health care
2 profession, or as a member of the clergy functioning in a ministerial capacity,
3 whose scope of practice is consistent with the accepted standards of that
4 individual's profession. An individual claiming an exemption under this subsection
5 may not represent to be rendering applied behavior analysis services.

6 **SECTION 3.** A new section to chapter 43-32 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Applied behavior analysis - Certification - Renewal - Fees.**

- 9 1. The board shall issue a certificate to each applicant who files an application upon a
10 form and in a manner the board prescribes; submits the required fee established by
11 the board, not to exceed two hundred dollars; and demonstrates the applicant meets
12 the requirements of subsection 2.
- 13 2. An applicant for certification as an applied behavior analyst shall demonstrate the
14 applicant:
- 15 a. Has met board-approved education requirements, such as the education
16 requirements of the board-certified behavior analyst standards;
- 17 b. Has passed a board-approved examination, such as the the board-certified
18 behavior analyst examination; and
- 19 c. Is credentialed as a behavior analyst by a board-approved credentialing entity,
20 such as the behavior analyst certification board.
- 21 3. Before January first of each year, every certified behavior analyst shall pay to the
22 secretary of the board an annual certification renewal fee determined by the board not
23 to exceed one hundred fifty dollars. The secretary of the board, upon receipt of
24 payment of the annual certification fee, shall issue the certificate holder a certificate of
25 annual renewal. An individual may not hold out as an applied behavior analyst until the
26 annual certification fee is paid. The board may deny renewal of the certification of an
27 individual who violates this section. Annually, the board shall mail a renewal notice to
28 each certified applied behavior analyst at the address on file with the board. An
29 individual whose certification issued under this chapter was revoked for failure to pay
30 the annual certification renewal fee must be reinstated and the certification renewed if,
31 within one year from the date of revocation, the individual pays to the secretary of the

1 board the amount of the annual certification renewal fees in default and a late fee in
2 the amount of twenty dollars.

3 4. The board may withhold, deny, revoke, or suspend a certificate for applied behavior
4 analyst applied for or issued under this chapter and otherwise may discipline a
5 certificate holder or applicant in the same manner provided under section 43-32-27.

6 5. A complaint regarding or board investigation of a certified applied behavior analyst is
7 filed or conducted in the same manner as provided under section 43-32-27.1.