

February 18, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2155

Page 1, line 2, replace "certification" with "regulation"

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "43-32-01" insert ", 43-32-08, 43-32-08.1, 43-32-08.2, 43-32-09, 43-32-12, 43-32-13, and 43-32-14, subsection 1 of section 43-32-16, and sections 43-32-19.1 and 43-32-30"

Page 1, line 3, replace "definitions related to" with "the regulation of applied behavior analysis by"

Page 1, line 9, replace "analysis" with "analyst"

Page 1, line 9, remove "the design, implementation, and evaluation of"

Page 1, remove lines 10 through 12

Page 1, line 13, replace "environment and behavior" with "an individual licensed under this chapter as an applied behavior analyst. The term does not include a registered applied behavior analyst"

Page 1, line 14, after "2." insert "\"Autism spectrum disorder\" means a neurobiological medical condition that includes autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder, and childhood disintegrative disorder.

3."

Page 1, line 15, replace "3." with "4."

Page 1, line 17, replace "4." with "5."

Page 1, line 22, replace "5." with "6."

Page 2, line 3, replace "6." with "7."

Page 2, line 3, after the first "psychologist" insert ", an applied behavior analyst."

Page 2, line 4, replace "7." with "8."

Page 2, line 4, replace "means" with ";

a. Means"

Page 2, line 6, after "including" insert "principles of operant and respondent learning. The term includes"

Page 2, line 7, replace "design" with ";

(1) Design"

Page 2, line 8, replace "design" with:

"(2) Design"

Page 2, line 10, replace "design" with:

"(3) Design"

Page 2, line 11, replace "consult" with:

"(4) Consult"

Page 2, line 11, after the underscored period insert:

"b."

Page 2, line 12, replace "neuropsychology" with "personality assessment, intellectual assessment, neuropsychological assessment"

Page 2, line 13, after the third underscored comma insert "family therapy, coordination of care,"

Page 2, line 13, remove "or"

Page 2, line 13, after "hypnotherapy" insert ", and long-term counseling"

Page 2, line 15, replace "8." with "9."

Page 3, line 1, replace "9." with "10."

Page 3, line 3, replace "10." with "11."

Page 3, line 6, replace "11." with:

"12. "Registered applied behavior analyst" or "registrant" means an individual who is registered under this chapter as a registered applied behavior analyst. The term does not include an applied behavior analyst.

13."

Page 3, after line 9, insert:

"SECTION 2. AMENDMENT. Section 43-32-08 of the North Dakota Century Code is amended and reenacted as follows:

43-32-08. Rules.

The board may adopt rules as necessary to enable the board to carry into effect the provisions of this chapter. The rules may include a code of ethics for licensees and registrants. The board shall adopt rules defining what programs of study are substantially psychological in nature; what educational programs are acceptable for the licensing of psychologists and applied behavior analysts and for registering registered applied behavior analysts; and what educational programs are acceptable for the licensing of industrial-organizational psychologists. The educational program rules for industrial-organizational psychologists must take into account the availability of professionally accredited programs in the field of industrial-organizational psychology.

SECTION 3. 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, registrants, and industrial-organizational psychology residents. 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 4. AMENDMENT. Section 43-32-08.2 of 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 proof the continuing education requirements under section 43-32-08.1 have been met. An individual whose license or registration is not renewed because of failure to meet the continuing education requirements must be reinstated and the license or registration renewed if, within one year from the date of nonrenewal, the individual demonstrates to the secretary of the board the continuing education requirements have been satisfied, pays the renewal fee, and pays a late fee to be determined by rule of the board.

SECTION 5. AMENDMENT. Section 43-32-09 of the North Dakota Century Code is amended and reenacted as follows:

43-32-09. Examination of qualifications of applicants.

The board shall examine for, deny, approve, revoke, suspend, and renew the licensing and registration of applicants as provided under this chapter.

SECTION 6. AMENDMENT. Section 43-32-12 of the North Dakota Century Code is amended and reenacted as follows:

43-32-12. Application and license fee for licensure and registration.

The board shall adopt rules establishing the amount of the application fee for licensure and registration by written and oral examination and by reciprocity. A fee is not refundable, in whole or in part, except for failure of the board to hold examinations at the time originally announced, in which event the entire fee must be refunded upon demand by the applicant.

SECTION 7. AMENDMENT. Section 43-32-13 of the North Dakota Century Code is amended and reenacted as follows:

43-32-13. Annual license and registration fee.

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

SECTION 8. AMENDMENT. Section 43-32-14 of the North Dakota Century Code is amended and reenacted as follows:

43-32-14. Payment of delinquent license fees annual fee - Reinstatement.

An individual whose license or registration issued under this chapter was revoked for failure to pay the annual license-fee must be reinstated and the license or registration renewed if, within one year from the date of revocation, the individual pays to the secretary of the board the amount of the annual license-fees in default and a late fee in the amount of twenty dollars.

SECTION 9. AMENDMENT. Subsection 1 of section 43-32-16 of the North Dakota Century Code is amended and reenacted as follows:

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.

SECTION 10. AMENDMENT. Section 43-32-19.1 of the North Dakota Century Code is amended and reenacted as follows:

43-32-19.1. Licensing applicant licensed in other jurisdictions.

1. 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, or applied behavior analysis~~ and meets one of the following requirements:
 - ~~1.a.~~ 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.b.~~ The applicant holds a certificate of professional qualification in psychology issued by the association of state and provincial psychology boards or its successor.
2. The board shall grant a provisional license or registration to an applicant to be an applied behavior analyst or registered applied behavior analyst while the application is pending, provided the applicant is:
 - a. Licensed or registered and is in good standing in another jurisdiction;
or

b. Certified in good standing with the national behavior analyst certification board.

SECTION 11. 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. A student or intern pursuing a course of study in psychology or industrial-organizational psychology, or applied behavior analysis at a school or college, if the activities and services are a part of the individual's supervised course of study and are under the supervision of a licensed psychologist or industrial-organizational psychologist, registrant, or applied behavior analyst. The student or intern shall may not use the title "psychologist" or "industrial-organizational psychologist", "licensed behavior analyst", or "registered applied behavior analyst" and the student or intern status shall must be clearly stated.
2. A nonresident licensed, registered, or certified in the state of the individual's residence who does not practice psychology or industrial-organizational psychology, or applied behavior analysis in this state for a period of more than thirty days in any calendar year.
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, applied behavior analysis, or industrial-organizational psychology unless the lecturer is licensed or registered under this chapter.
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.
5. A person certified, licensed, or registered in this state in another health care profession, or as a member of the clergy functioning in a ministerial capacity, whose scope of practice 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 or applied behavior analysis services.
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.
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.

8. An individual providing applied behavior analysis services to an individual in a public school setting.
9. An individual providing applied behavior analysis services to an individual served by a public or private service agency licensed by the state to provide residential, habilitative, vocational, or social support services as defined by the board when performed as part of an individual support plan supervised by a professional employee meeting the requirements of that agency's licensure standards, provided the professional employee does not represent to the public as a registrant or an applied behavior analyst.
10. An individual who is implementing applied behavior analysis services to an immediate family member or as a paid or volunteer caregiver implementing procedures established by the family or by the individual served in any setting, if the individual or caregiver does not represent as a registrant or an applied behavior analyst."

Page 3, line 12, replace "**Certification**" with "**Licensure or registration**"

Page 3, line 12, remove "**- Exemptions**"

Page 3, line 13, remove "1."

Page 3, line 13, replace "certified as" with "a registrant."

Page 3, line 13, remove "under this chapter."

Page 3, line 13, after the underscored comma insert "or a psychologist."

Page 3, line 14, replace "a." with "1."

Page 3, line 17, replace "b." with "2."

Page 3, line 17, replace "certified" with "licensed"

Page 3, line 17, after "or" insert "registered applied behavior analyst" or"

Page 3, line 18, replace "certified" with "licensed or registered"

Page 3, remove lines 19 through 30

Page 4, remove lines 1 through 5

Page 4, line 8, remove "**Certification -**"

Page 4, line 9, replace "certificate" with "license or registration"

Page 4, line 9, after "application" insert "for registration as a registered applied behavior analyst or for licensure as an applied behavior analyst"

Page 4, line 11, remove ", not to exceed two hundred dollars"

Page 4, line 13, replace "for certification as an applied behavior analyst" with "under this section"

Page 4, line 17, after "board-approved" insert "demonstration of professional competence, such as a standardized"

Page 4, line 17, replace the underscored comma with "specific to the profession"

Page 4, line 17, remove the second "the"

Page 4, line 18, remove "and"

Page 4, line 20, after "board" insert "; and

d. Has established supervision requirements as determined by the board for practice when applying as a registered applied behavior analyst"

Page 4, line 21, replace "certified" with "registrant and applied"

Page 4, line 22, replace "certification" with "license or registration"

Page 4, line 22, remove "not"

Page 4, line 23, remove "to exceed one hundred fifty dollars"

Page 4, line 24, remove "certification"

Page 4, line 24, replace the first "certificate" with "license or registration"

Page 4, line 26, remove the first "certification"

Page 4, line 26, replace the second "certification" with "license or registration"

Page 4, line 28, replace "certified" with "registrant and"

Page 4, line 29, replace "certification" with "license or registration"

Page 4, line 30, remove the first "certification"

Page 4, line 30, replace the second "certification" with "license or registration"

Page 5, line 1, remove "certification"

Page 5, line 3, replace "certificate" with "license or registration"

Page 5, line 5, replace "certificate" with "license or registration"

Page 5, line 6, replace "certified" with "licensed or registered"

Page 5, after line 7, insert:

"6. If an individual employed in the state on August 1, 2011, in the practice of applied behavior analysis submits to the board a written request before January 1, 2013, the required license or registration application fee, and a written statement from the applicant's employer that the applicant's employment remains satisfactory, the board shall issue to that applicant:

a. A license as an applied behavior analyst if the applicant is employed in a position granted license exemption by the board and submits a letter of endorsement from the licensed psychologist supervisor.

b. A license as an applied behavior analyst if the applicant has a master's degree in psychology and is employed as a behavior analyst as verified in writing by the applicant's employer. Acceptable work titles for an applicant under this subdivision include behavior analyst, behavior interventionist, and behavior modification specialist.

c. Registration as an applied behavior analyst if the applicant has a bachelor's degree; provides a board-approved plan of supervision from a licensed psychologist or applied behavior analyst; and is employed as a behavior analyst as verified in writing by the applicant's employer. Acceptable work titles for an applicant under this subdivision include behavior analyst, behavior interventionist, and behavior modification specialist."

Renumber accordingly