

2017 SENATE HUMAN SERVICES

SB 2141

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2141
1/31/2017
Job Number 27668

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Amouso

Explanation or reason for introduction of bill/resolution:

A bill relating to regulation by the state board of psychologist examiners; and to repeal sections relating to applied behavior analysis.

Minutes:

#1 Senator Anderson
#2 Dr. Paul Kolstoe

Chair J. Lee opened the public hearing on SB 2141 and then recessed until after the floor session.

Chair J. Lee reopened the hearing.

Senator Anderson introduced the bill, please see attachment #1.

Dr. Paul Kolstoe (2:05-10:45) testified in favor of SB 2141. Please see attachment #2.

Chair J. Lee referred to pg. 5 of his testimony. Why aren't the educational psychologists regulated by your board?

Dr. Kolstoe: That ends up being a national debate and was held back in the 1967 legislature when the board was created. The best of my understanding is, at that time the school psychologists, as a national practice, were fairly separate from where clinical psychologists were. From a licensing standpoint, it was felt it was necessary to address licensed psychologists. Since then, it's just been, by agreement with the Department of Public Instruction. As a board we can't find a record of that agreement. We've met with both DPI and ESPB in discussing this particular shift. We anticipate developing the agreement together given that we have the legislative authority to have that relationship. In some states, it is regulated together, in others not at all. In terms of guidance from the Association of Licensing Boards there isn't a one size fits all description of it.

Chair J. Lee said it seems odd that it wouldn't be professionals in the field who were regulating instead of ESPB.

Dr. Kolstoe: Discussions started with the idea that they were open to the idea the psychologists should, perhaps, be engaged with them in discussion of the psychologist side of a school psychologist.

Chair J. Lee: Is the curriculum that different?

Dr. Kolstoe: Most school psychologists are masters level with a specialty certificate. In order for a school psychologist to try to move to private practice, they need a doctorate. At that level they would pursue licensure in independent practice.

Chair J. Lee: There's a certain frustration with some individuals coming in from other states with the time frames. Are we going to be able to see a little more stepped up scheduling?

Dr. Kolstoe: There is a section titled expedited licensure. It uses some recommendations arrived at from the behavioral health boards conversation. He explained the wording. (15:25)

Senator Anderson: Other states recognize regional accrediting bodies but, apparently, we don't. Can you explain that process?

Dr. Kolstoe: We do require people have their degree from a regionally accredited body. That's one of our standards as well. We also have the obligation that the person meets the minimum practice requirements for national standards. That is going to be from an APA approved program or an AP approved internship. If a person hasn't done either, they can't be considered for licensure under our statute. From a national standards standpoint, in the vast majority of states, they would not be licensable. There are some states and provinces that will even license at the master's level. That is one of the risks of just having someone port in their license. There are pathways to follow, but many don't want to. Lowering our credential requirement is not a ND responsibility.

Senator Anderson said he would like to give scenarios from people and have Dr. Kolstoe answer specifically what the alternate pathways are.

Dr. Kolstoe responded that he would be happy to help people find the pathway.

Chair J. Lee: It is unfortunate that there are schools providing training to unwitting students. I appreciate their frustration. It's a shame we can't make those who are providing a program be accredited. She gave an example of a student attending a school that was in the process of getting accredited but hadn't reached it by the time she graduated.

Dr. Kolstoe: In terms of APA accreditation there are provisions for people who were in the program at the time the school was going through accreditation. It does apply back so many years. The school has to demonstrate they were at that level for the time period that APA was looking back at. In those cases, accreditation is actually back projected.

There was no opposing or neutral testimony.

Chair J. Lee closed the public hearing on SB 2141.

V-Chair Larsen moved a **Do Pass** on **SB 2141**.

Senator Kreun seconded the motion.

Motion carries 7-0-0.

Senator Anderson is the carrier.

Date: 4/31 2017

Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2141

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen Larsen Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Anderson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2141: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS**
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the
Eleventh order on the calendar.

2017 HOUSE HUMAN SERVICES

SB 2141

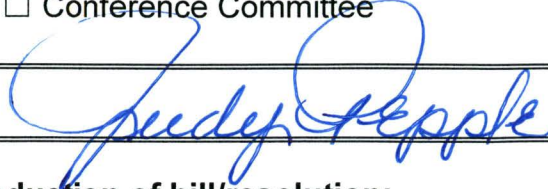
2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Fort Union Room, State Capitol

SB 2141
3/6/2017
28719

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation by the state board of psychologist examiners and to applied behavior analysis.

Minutes:

1, 2, 3, 4

Chairman Weisz: Called the committee to order.
Opened the hearing on SB 2141.
Is there any testimony in support of SB 2141?

Sen. Howard C. Anderson Jr.
(Attachment 1)

Representative Porter: Was there a discussion about reciprocity for people that are working in another state, and the ability for them to be licensed here in ND? I bring that up so that I can kind of get a flavor for what you have discussed on the senate side, because that has been an issue as we have worked back and forth. We have heard from people that have said they are fully licensed and working in the same profession, but they won't license me in ND and then you complain about not having enough mental health providers. Did you have any discussion about the reciprocity component?

H. Anderson: Yes, we did. There are some provisions in this bill that make it easier to get their internship here and get a provisional license by the board of psychologist examiners if they are going to do that. Now, having said that, some of the people that come and say that they have been appropriately practicing or whatever do not always meet the requirements of the local board. They have been to a school that wasn't accredited or a school that might have told them that it was accredited at the time they went to school. Occasionally those schools get sued later because they pretended they were fully accredited and it turned out they weren't. The local board has had some of those specifics. This is to help people get licensed here a little bit easier than in the past.

Representative Porter: We had a resolution last week that talked about a NC decision that talked about practicing boards that are limiting the ability to practice and the federal trades commission stepped in and said that is not legal because you are using your professional

licensing board to build something that limits competition inside of your state that is basically interstate commerce. It is coming over to you guys now, but as we look at the rest of these boards for the rest of the session it is certainly a huge concern that we need to have as we are looking at these things to make sure we aren't using a board or their licensing procedures to limit others from being able to be working inside of that profession.

H. Anderson: I think those are specific questions you can ask each of the boards that come before you. The NC case has more to do with boards issuing cease and desist orders based on their opinion that this should come under their board. They didn't have statutes and they didn't even have rules to say that these other people shouldn't be doing that. Part of the NC thing was that their law was not clear about it. Many of our boards now are putting things into statutes so you get a chance to review them before-hand. If we study our 40 something boards we may find some that are doing things they shouldn't do. Our laws are clearer here and as long as you stick to the laws that you have adopted and the rules that you have approved through your administrative rules committee you will be ok.

Vice Chairman Rohr: I was on the health services committee this interim and we talked about the need to have more professionals for access issues. One of the strategies was to allow for other professions to provide for that internship. So will there be some limitations on who can do that? Can a MD then precept these people when they come into a rural setting? What kind of limitations should be discussed and secondly are these people then paid to be preceptors for these internships?

H. Anderson: I am not sure if this group requires paid, but Dr. Kolstoe can answer that question. When the bill was introduced we said another professional that was in that field can be the preceptor. For example, if we send a pharmacist to work with a physician or a nurse practitioner to work with them in one of their rotations, we approve those. Some of the boards have asked that these be put in their legislation that says that the preceptor has to be approved by the board before they can be a preceptor. If it is a person outside of that field they would have the approval of the head of the board relating to their field. Some of it needs to be specific to what you are going to do, but the others can be other people. I think that gives us more flexibility than we had previously.

Vice Chairman Rohr: There would be a list of competencies that they would have to fulfill in their internship. These people would be signing off on their competency during their internship, correct?

H. Anderson: Yes they do.

Chairman Weisz: Are there further questions from the committee?
Chairman Weisz: Is there further testimony in support of SB 2141?

Dr. Paul Kolstoe, Psychologist
(Attachment 2)
19:26

Chairman Weisz: Are there any questions from the committee?

Representative Porter: Walking through a couple of things I am unclear on. On page 4 at the top were are saying that the public member has to be a resident of the state, but the actual other members don't have to be a resident of the state.

Dr. Kolstoe: I believe when you take out the editing it refers to everyone needing to be a resident of the state.

Representative Porter: So the intent is that everyone is a resident of the state?

Dr. Kolstoe: Yes, that was the intent.

Representative Porter: In section 4 the new language has there been an opinion that boards cannot contract with outside agencies. Do we need to add this and is it something that you guys were told as a board?

Dr. Kolstoe: To my knowledge we haven't been told that we can't. What we struggles with when we were going through our proposals process, it was a lack of clarity that we could. So as a board as we were looking at it we just wanted to make it very clear that it is possible to do so. Many other boards have contracted with entities, so we didn't want to be left out of the race. It was intended as a clarifying addition.

Representative Porter: Was that from the state's procurement office that said that who you may or may not be able to contract with.

Dr. Kolstoe: We have had zero problems about it.

Representative Porter: On page 13 line 19 you are talking about the board setting fees or fines for minor infractions of this chapter. Can you give us an example of the fees referred to and what happens to that money? Are they deposited back into your operating account or do they go to general fund? Is it kind of the fox watching the henhouse and somebody gets an investigation and they tell them that they did an investigation and you were ok, but we are going to charge you for the investigation because the board incurred expenses because of it?

Dr. Kolstoe: I don't have all of the details in front of me, but I believe the fines do go to the general fund. In general, we have not levied fines historically. Perhaps it is being the fox, but not guarding that particular henhouse if the money does come in it doesn't come to us anyway unless it is a deterrent for the person. The issue of fees has to do with the requests for information that people ask for. We didn't have a way of charging for that information or the time it takes for us to get it. If we send them a piece of paper, we can charge them for the piece of paper, but we can't charge them for the time it takes to generate a certified reply to that so we were working on a fee schedule of operating business functions that cost us in time and effort. We were looking at establishing a fee schedule that just recouped out costs.

Representative Porter: A lot of us in that realm just do that within our own budget as a part of doing business. Like medical records we cap the amount of money it takes for somebody to get their medical records, because the system was charging so much inside of the fees

that no one could afford to get their medical records. How are we going to make sure that those fees are reasonable for what is being requested.

Dr. Kolstoe: All of our fees are in administrative code. Our fees are just to recoup our costs in our contract with our administrative office. We contracted with a part time staff to do our administrative work and we were finding that some of the demands put on the board were requiring us to exceed our budget, so this is to recoup only.

Representative Porter: If we put this kind of language in the century code, we can't over see it at all and we can't say it is excessive. This would just really be a rubber stamp.

Dr. Kolstoe: I have not had any experience with things being rubber stamped. In fact, one time they sent it back to us and told us to redo it. If we are required to issue them a piece of paper, then we can charge them. It is not to be a revenue center.

Representative Porter: Now that we are talking about national exams and a national standard of licensure, are we going to get away from the problems of letting people come in from other states that might have had different clinical requirements for their state, but were still eligible for writing that national exam so that will now be the standard? Are your standards now going to be whatever the national standard is your requirement going to be the national standards plus?

Dr. Kolstoe: In ND century code it does refer to coming from an accredited program and then in administrative codes it specifically refers to the American Psychological Association accredited programs. That is the national standard. The north American standard for the examination is the EPPP. Between those 2 standards those are the expected. We as a board belong to the board that oversees the EPPP exam. Some Canadian provinces belong to this board too. There is a wide range of qualifications in the states? Some states a few years ago didn't have any standards at all. Some states don't even require licensure at all. We have a standard or a floor. Nationally there is a floor too and there are people that have not met that standard and we have tried to help them find pathways to get to those standards. I have found that being on a regulatory board there is a point that has to be a cutoff point and below that point people need to pay attention to what that cutoff is and what they need to do to achieve it or go do something else with someone else.

Representative Schneider: After reading the definitions I am not sure I understand the difference between licensed behavior analysts and registered behavioral analysts.

Dr. Kolstoe: In order to be a licensed behavioral analyst in ND, you must pass the national board certification exam. So you have to be a BCBA. The easiest way to explain the difference is that a licensed behavioral analyst can practice independently and a registered behavioral analyst has to practice under a licensed psychologist or a licensed behavioral analyst. To become a registered behavioral analyst requires taking an explicit set of course work and then passing the EPPP which is designed for psychologists, but you can pass the test at a lower level than the psychologist. In each case passing the oral examination by the board. I currently have two registered behavioral analysts that work under my supervision.

Representative McWilliams: My question is on section 7 where it talks about the fee is not refundable. Do that mean now that if the board sets up an examination and then does not hold that examination that fee is not refundable under any circumstances?

Dr. Kolstoe: We found that this was written in a time when the physical properties of examinations required a great deal of effort to get people places, and now it can now be done at a Sylvan Learning Center and you sit down and take it online, so there is never a time when it couldn't be done. We also require an oral examination and it is done by conference call. That exemption to the fee no longer made sense.

37:09

Chairman Weisz: Further questions from the committee?

Vice Chairman Rohr: Supervision of people. Can you walk me through that? It sounds like it would be a lot of work.

Dr. Kolstoe: I don't recall how long ago that was put into the statutes, but it was a long time ago. There is a certain minimum that has to be provided by the primary supervisor and the primary supervisor does have to be a psychologist. The rest of it can be provided by someone that the supervising psychologist finds acceptable. Some of that is a protection for the licensee, because if they move to other states most states require a certain amount of supervision from a psychologist licensure.

Chairman Weisz: Further questions? I would like to go back to section 17 where you are adding the fees. Currently you can already assess the costs incurred by the board so if someone or a practice wants information, you can already excess the cost of sending them that information. The new language says it is setting fees for minor infractions of this chapter. So you are going to have both fees and fines for a minor infraction. I am not clear on why you needed to have the fees, because you can already access the costs of the investigation and related to any disciplinary actions. That is already in current law. So I am not clear on this. Now you can set a fee and a fine for minor infractions. Can you explain that to me?.

Dr. Kolstone: I think our concern about the fees was that we had been advised that we did not have access to recovering costs. That they could be recovered in fines, except that we were told that the fines go to the general fund. Again I think we were told the fines did not go to us and the fees did. We felt it was not to be charged to everyone when it was incurred by the person needing.

Chairman Weisz: Further questions from the committee?

Chairman Weisz: Is there further testimony in support of SB 2141?

Chairman Weisz: Is there testimony in opposition to SB 2141?

42:35

Tara Geigle
(Attachment 3)

55:42

Chairman Weisz: Are there any questions from the committee?

Representative Porter: The big question I have is that through your training and your schooling were you eligible to sit for the national exam?

T. Geigle: In all except for 4 states I could.

Representative Porter: The exam is a national exam and once you are done with your clinicals inside of your program, what does your state of residency have to do with your ability to sit for the exam?

T. Geigle: If the state doesn't allow me to be licensed, then I can't sit for the exam. In some I have to go through all the training and list them all. The

Representative Porter: You are board eligible to write the national exam in Minnesota, but not in the state of ND based on the school and the certification of the school you went to.

T. Geigle: Yes, I can. My program was not APA accredited, but my school was. That is the only thing that holds me back. If they changed that one thing I could. If I went to Minnesota and took the exam, I wouldn't even be able to come back.

Representative Porter: You could be licensed in Minnesota and work there for 10 years, but then if you came back to ND you still could not be licensed in ND. Sitting for the exam still has to be approved by the state. If you don't have everything they give you time to get any requirements that you are lacking before they send it all in. If they would just change it to accredited school instead of an accredited program.

Vice Chairman Rohr: In the interim committee were heard that there is a cross walk that they established for people of what the requirements would be if they want to fulfill the ND standard. Did you look at that?

T. Geigle: I have not sent it in, because you can send it in and pay all the fees, but if you didn't come from an APA accredited program. I haven't sent it in because I can't afford to pay all of those fees just to find out they won't accept it. The code is clear.

Vice Chairman Rohr: Reimbursement rates are different in other states? Is that true? I am guessing that if we are one of the four toughest, our reimbursement rates should be higher.

T. Geigle: I would not know that right now, but I could find out. I would assume that since there are only 4 states. I would assume that they wouldn't be drastically different or else more states would do it.

Representative McWilliams: You have said that there are other people in the state that this would effect?

T. Geigle: I know of 4 for sure, but I also know there are many others that have tried different avenues. The board of counseling changed their rules as well, so I couldn't be a counselor either because my degree would have to say counselor and mine says psychology.

Chairman Weisz: Further questions? Seeing none, thank you.

Chairman Weisz: Is there further testimony in opposition to SB 2141?

Manisha Sawhney, Ph.D. (Sent testimony, but was not here)
(Attachment 4)

Chairman Weisz: We will close the hearing on SB 2141.

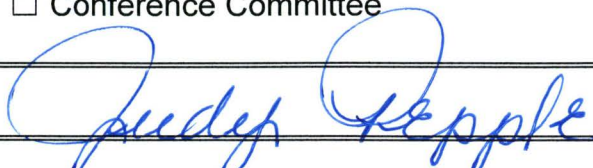
2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2141
3/20/2017
29478

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation by the state board of psychologist examiners; and to repeal sections of Century Code, relating to applied behavior analysis.

Minutes:

1, 2

Chairman Weisz: Opened the discussion on SB 2141. I am sure there are some suggested amendments.

Representative Devlin: I know there was a number of concerns about the effect on the private sector on what is being done here. I was not satisfied with how this bill would affect them. I know there is someone here today from the Anne Carlson School and if you would consider, I would like to know how this change effects them positively or negatively. I know the hearing is over, but I know they are here and I would like to know their thoughts.

Chairman Weisz: I suppose I can entertain that. Would someone like to come up?

Eric Munson, CEO of Anne Carlson Center in Jamestown and 8 other locations
We are a statewide provider of services to children and adults on the autism spectrum. We've worked very hard in our talent search to attract board certified behavioral analysts to the state of ND. We think the BCBA is the gold standard in terms of individuals to work in behavioral health and including the autism spectrum. Our goal is to increase the supply of behavioral analysts, certified behavioral analysts in the state of ND. I have some amendments that we would offer to SB 2141. I would like to distribute if it is alright.
(Attachment 1)

E. Monson: I don't know if you want to go through these one by one. Again our goal is to increase the supply of certified behavioral analysts in the state and we believe that our amendments would assist in that effort.

Chairman Weisz: I see you have a few. If you want to run through them and explain the reason for the change.

Representative Devlin: I would like to know about their concerns with the bill, because obviously if they have a list of amendments like this they must have some.

Chairman Weisz: How do you think the bill is going to affect you today as it is and then you can go through your suggested amendments.

E. Monson: In the materials that we handed out we have the suggested amendment and the explanation of that. What we feel in general was reported to us to be an update of language in the current licensing law, we feel actually changes the licensing law and inhibits the ability to bring into the state certified behavioral analysts as well as slows the process because of some oversight. (Went through the amendments).

7:56

Chairman Weisz: Go back to page 7 line 28. Your concern currently the way the bill is written?

E. Monson: I would like to have Trisha Page come and answer these questions. She has more knowledge than I.

Chairman Weisz: That would be appropriate.

Trisha Page, Administrator of the Behavioral Health Program for Anne Carlson

Chairman Weisz: So go back to my question, page 7 line 28. You're suggested amendment would add certified. Currently the way the bill is written, you are saying you wouldn't be able to hire from those 31 states? What is the concern here now with the current language that would affect you?

T. Page: The way that the language is written right now for example, if we would have someone from Minnesota that wants to practice in ND and they are board certified behavioral analyst, but they are not licensed, Minnesota does not have a licensing process. They are unable to practice in ND without doing supervision under someone licensed from within ND who potentially could have less credentials than the individuals coming over from Minnesota.

Chairman Weisz: Ok, but the current language says licensed or registered, so you are saying they wouldn't be registered in the state of Minnesota either? Even though they are board certified.

T. Page: That is correct.

Chairman Weisz: As long as you are up here, you may as well finish going through the proposed amendments.

10:24

T. Page: Starting on page 9 line 10 of their suggested amendments and going through the remainder of them.

Chairman Weisz: So you have put it after the second "or" on line 8. So it should say "or board certified behavioral analyst". Is that what you are saying?

T. Page: Yes, that is correct.

Chairman Weisz: So your next one is basically the same thing?

T. Page: Yes, that is correct.

Chairman Weisz: Ok are there questions from the committee?

13:40

Representative Porter: page 7 line 28 to the word certified. If an individual is working and has 20 years of experience but they are not certified, but inside this board they are licensed to practice, and let's say they are the department head and someone fresh out of school comes in and goes to work for that department. Does it mean that they can't be their supervisor?

T. Page: It would be a possibility, but what would probably happen for the supervision of a board certified behavioral analyst by the time they have that credential their supervision is complete. It would be in the time that they were a student. The board supervision process is an extremely rigorous standard board process. The criteria they have to meet is a standard of continuing education that they are put through. The professional that has worked in the field with a license psychologist would be credentialed and would meet the criteria as far as their licensed psychologist would fit this legislation. It would have to be a professional in the field that has a master's degree outside of the area of psychology and not licensed.

Representative Porter: Typically from our standpoint we don't go into structures and say who can supervise who. I don't know if I am missing something or it is just not sinking in, but when we get down to the point of who can supervise who and who is in charge of whomever. We don't usually go that far inside of these structures, because that is kind of somebody else's day to day realm. If I own a business and I hire someone that is more educated than I am I will still be his supervisor because it is my company. I am not sure what I am missing here. Are you setting this new person apart in the supervisory structure of an organization that would be hiring this person?

T. Page: Can I try a different angle? So if we have a board certified behavioral analyst that has a doctorate. So it would be like a medical doctor be supervised by a physician's assistant. So you would have someone with lesser experience training in someone with greater experience and greater professional background.

Representative Porter: Even inside of the structure of hospitals and clinics there is a supervisory structure. I don't know if you are talking just on the clinical aspects of who can supervise whomever, but when I hire people some of them are way more trained in particular areas than I am. I still sign their pay check and I can still fire them and hire them and discipline them and they have to answer to me. It seems like you are carving out the answer to me category.

T. Page: It is not a supervision on a day to day employment basis, but supervision to obtain the credential. An internship if you will.

Chairman Weisz: In reality which section of the bill are we talking about on that part? That is not found in the supervisory section here.

Representative Porter: On line 18 of page 3 in the amendment of who can supervise who. That is kind of what I am looking at. I haven't gotten passed the first one yet.

Chairman Weisz: They are asking to remove the overstrike, because they are saying they want it to be supervised by a licensed psychologist or applied behavioral analyst. So this is a lower level that is being supervised. The registered behavioral analyst is a lower level, correct.

T. Page: Yes, that is correct.

Chairman Weisz: the registered has to be supervised by a licensed psychologist or an applied behavioral psychologist.

T. Page: Yes.

Chairman Weisz: Your rationale for that is? Now we are talking about a psychologist.

T. Page: A licensed psychologist in the state of ND that are grandfathered in does have the Phd. level degree. They would have that higher level of training and experience in order to meet the supervisory conditions.

Representative Porter: Are you guys thinking that the word licensed before the word psychologist also applies to the applied behavioral analyst?

T. Page: Yes, that is correct.

Representative Porter: then we have an English problem here.

Chairman Weisz: I don't think that is what it will say.

Representative Porter: Now I am getting clearer. Then it wouldn't be so much the fact of what the word is in front of psychologist. You are asking that we insert the word "licensed" in front of behavioral analyst.

T. Page: That is correct.

Chairman Weisz: I was kind of wondering why you were so worried about the psychologist. Are you ready to go to the next one now, Representative Porter?

Representative Porter: I am not sure. I am still stuck. At least now I understand what they are trying to do. The psychologist is by itself. That is not part of this any longer, but in front of the behavioral analyst if they are not licensed and just certified and they have 15 years of experience you are saying someone fresh out of school that is licensed doesn't answer to them. They can't be supervised by this person with all these years of experience.

T. Page: What we are getting at here is that to become a BCBA someone needs 1500 hours of supervision to be eligible to test for the board certification. The supervision that in question here is the time that they need to invest and be supervised to sit for the examination to be board certified. A registered behavioral analyst in the state of ND is an individual that has a 4 year degree in psychology or human services and has met 500 hours of supervision.

Chairman Weisz: Right now that is all we are talking about in this section. We are not talking about board certified. We are talking about who can supervise a registered applied behavioral analyst correct?

Chairman Weisz: I just want to be sure we are saying the same thing.

T. Page: A licensed applied behavioral analyst has a master's level degree. applied

Chairman Weisz: Without the word licensed it is the same as

Representative McWilliams: There is registered, licensed, and certified. So there are 3 different levels?

T. Page: Actually there are several different levels and grandfathered statuses in ND, so the applied behavioral analyst, whether registered or licensed, are grandfathered prior to the board certification process. So individuals that were in ND that did not have the board certification were allowed to be kept on to provide behavioral therapy through this. Those that are board certified, the board certification came around in 1998 in an effort to make sure that nationally ethical standards were met as well as those centered in care. So that certification is above and beyond and requires continued education to keep that credential. Board certified behavioral analyst can be a master's level or a Phd. level.

Chairman Weisz: How many behavioral analysts licensed in ND have to be board certified? Everyone new in the state has to be board certified to practice in the state?

28:05

T. Page: I would have to back to make sure of that, but my understanding of the grandfathered term, I don't know if they can apply for that now.

Chairman Weisz: to be grandfathered after the fact.

Representative Porter: When you flip to page one and the definitions They are all assumed to be licensed applied behavioral analyst under this chapter. It doesn't get into splitting the hairs, like Ms. Page is talking about. When we have various levels of professions that have morphed over time with the educational system, one doesn't get to jump over the years of experience from work from the other just because they now have more of a requirement to get to where they are at. When my Mom was working as a nurse she had an 18- month degree, but still had RN behind her name. Then they went to a 2- year program where they had more education, but they both had RN behind their name. Then they went to a 4-year program and they were all three working together and they still had RN behind their name. It didn't make the 4-year RN something more spectacular than what my mother's 40 years of experience made her. Then over time, that cleans itself up. I am still confused as to why

inside of this we are going to use the century code to change who can supervise who.

Chairman Weisz: The definition does seem to define them on page 3 line 18. It says an ABA is already licensed. That is the definition now. Then it says the term does not include a registered applied behavioral analyst, but then we go on and it doesn't include them.

Representative Porter: The way I read it, is that the registered ABA is the person that is registered, but not licensed. Then when you use ABA on line 18 it is assumed that licensed ABA.

Chairman Weisz: Then it turns right around and says this term does not include an ABA. So what it is saying is that a RABA is not an ABA.

Representative Porter: so why are we adding the word licensed if it is already assumed under the definition?

Representative P. Anderson: Behavioral analyst that lives in Moorhead and she wants to practice in Fargo. What part of the licensing procedure through the licensing panel makes that a challenge?

T. Page: Minnesota does not have a license and in this language the way it is now, that supervision then would not have happened and there would not be a licensee to speak to. It says your supervisor must write a letter of recommendation to the licensing board of ND. Since Minnesota doesn't require licensing there is no one to do that, so it doesn't even get passed the licensing board to sit for the exam. It would be immediately thrown out. So they would have to get additional supervision hours and pay for additional supervision hours from lesser credentialed professionals just to practice in ND in something they may have been doing for many years in Minnesota. It keeps them from coming from other states to practice in ND. We only have 23 board certified behavioral analysts in ND, so it is a big problem.

Representative P. Anderson: Can we say through the licensing panel that if you are a board certified applied behavioral analyst you could be licensed and you shouldn't have to go through the process?

Chairman Weisz: So are board certified grandfathered?

T. Page: Individuals that are board certified do go through a licensing process.

Representative P. Anderson: If you are a board certified behavioral analyst from anywhere and you want to move to ND could you automatically have a license?

T. Page: You do have to have additional supervision if you come from a state that doesn't have licensure. There are only 19 states that require licensure, so the remaining states would require you to get licensed. That individual would have to seek out a board certified behavioral analyst or a licensed clinical psychologist within the state of ND and complete supervision so that they would then be able to get the recommendation that they are competent.

Representative P. Anderson: This language would allow that board certified behavioral analyst to come from Moorhead and work in Fargo.

T. Page: Yes, that is correct.

Representative McWilliams: So if there are only 19 states that require licensure, should we just do away with licensing altogether?

T. Page: That is not my comfort zone.

Representative McWilliams: Then we would have greater reciprocity.

Chairman Weisz: Ok committee are there any questions on the rest of the amendments?

Representative Devlin: No, I was just thinking that I owe you an apology when this is over, because I thought we were just going to get a simple answer. I didn't realize it would be so intense.

Chairman Weisz: Ok, does everyone understand what the amendments are doing?

Representative Seibel: No.

Chairman Weisz: Thank you Representative Seibel.

Representative Schneider: Just for the legislative history here if we pass this as written you feel that this is the best way to break down the reciprocity issue?

T. Page: We feel that this is the best way to do that.

Chairman Weisz: What the main issue is on page 12 section 28. That is the real key that you want certified. That really does address the Minnesota situation.

T. Page: Yes that is correct.

Chairman Weisz: Are there any more questions?

E. Monson: The BCBA is a national certified exam that has been in existence for about 15 years. The 19 states require additional licensure. The additional licensure is where the supervision comes in. Once you want to sit for the BCBA you have to have 1500 hours of supervision in the state where you want to sit for the exam. That is an expensive proposition and inhibits folks from coming to ND because they will not be able to practice without the license. So what our amendments attempt to do is to make the licensure easier for a board certified behavioral analyst. Certified in a national test. We don't mind the licensure issue although we could do without it and not harm quality whatsoever. There are 33 states that would agree with that statement. It is not the day to day management, it is the supervision in order to be licensed. Our estimate for the cost of all that would add an additional \$30,000 that would have to be paid by the person or the employer. I have a chart that might help. (Attachment 2)

Chairman Weisz: Are there questions from the committee?

Representative Porter: Inside of the BCBA the board closed the reciprocity in 2013 according to the sheet that you passed out. This would then open this back up? Are we overruling that stop from this time forward?

E. Monson: I am not sure of the history, but at some point in time certain individuals were grandfathered in a sometimes those people with less training are supervising those with much more training than they had.

Representative P. Anderson: They are supervised by someone with less credentialing and it would cost them \$30,000?

E. Monson: That would be our understanding of the licensure requirement even though you would come with the board certified behavioral analyst.

Representative P. Anderson: I don't think that was the intent of the licensing panel. We just need more behavioral health.

E. Monson: I can't speak to their intent, but we speak to what we feel would be a more equitable treatment of the situation.

Representative Porter: With this kind of information this late in the game it makes me uncomfortable without hearing from Dr. Kolstoe who presented this in the first place. I think we need to get him back here to address this, otherwise it may or may not be relevant amendment.

Chairman Weisz: I have questions too that would be relevant to the board. We will see if we can get a response from the board. We will see if we can get a copy of the amendment to him and see if we can get a response from him.

Adjourned.

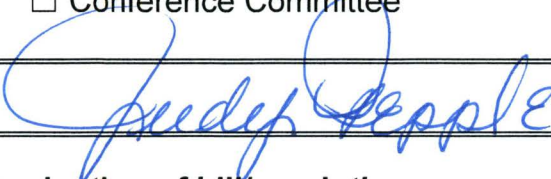
2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Fort Union Room, State Capitol

SB 2141
3/27/2017
29717

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation by the state board of psychologist examiners; and to repeal sections of Century Code, relating to applied behavioral analysis.

Minutes:

1, 2

Chairman Weisz: Ok committee, we had a list of 9 amendments that were brought to us by Anne Carlson people. I am handing out a couple of amendments that we need to discuss. The first on is on page 7 line 28 and it inserts "certified" after licensed. This was one of the 9 suggestions they had made.
(Attachment 1)

Representative Skroch: I move that we adopt the amendment.
D. Anderson: I second it

Chairman Weisz: Ok, we have a motion and a second to adopt the amendment. Is there any discussion? Seeing none we will take a voice vote on the amendment.
Voice vote taken. Motion carried.

Chairman Weisz: Ok the second amendment is on page 10 line 27. After the period insert "The board's rule must allow supervision of board certified behavioral analysts by professionals with equivalent or greater training". Is there any discussion?
(Attachment 2)

Representative Devlin: I move a do pass on the amendment.

Chairman Weisz: Ok we have a motion on the amendment. Do we have a second?

Representative Schneider: second

Chairman Weisz: Ok that motion carried. Are there any more amendments that anyone wants to bring forward?

Chairman Weisz: Is there any discussion? Seeing none we will take a vote

Representative Seibel: On page 13 where they could add fees or fines., line 19, I made a note to myself that doesn't line 18 continue into 19 allows them to do that.

Chairman Weisz: Ok you have a point. They already have the ability to fine for a minor infraction in current law. On line 18 it says that in order to assess costs, they can fine them for whatever the fee is for. It is like assessing the cost and fining them.

Representative D. Anderson: I see I wrote down as to where the fee goes. It goes to the general fund.

Chairman Weisz: I would assume that if the board sets fees it comes back to the board.

Representative Porter: My concern was that the fox was guarding the henhouse. If they do a fine and then it goes back to the board, so the board that sets the fine is also the beneficiary of the fine. We don't like doing that because it sets up the situation where somebody is going to not be willing to negotiate or to work on the reasonable resolve of this situation when that happens. I see that they already have the ability with the fines. We would just be adding the fees.

Chairman Weisz: So they can fine them and then add fees? What are the fees for? I don't know if we got a good answer either.

Representative Porter: I would move that we amend page 13 line 20 after the word chapter insert "not exceed \$500".

Representative D. Anderson: Second.

Chairman Weisz: So the committee understands the board may set fees or fines for minor infractions not to exceed \$500.

Representative McWilliams: Do we know what fees and fines are right now?

Chairman Weisz: Whatever they want them to be.

Representative McWilliams: I am just wondering if \$500 is too much. Should we cut it down to \$300 or something?

Chairman Weisz: Well, as Representative Porter said this one will probably be in conference committee so we can do whatever. I would guess the number was just pulled out of the air.

Representative Skroch: I understand your concern about the fox watching the henhouse. So is there a way to cycle the funds back through the general fund. Then it would be up to the discretion of the people watching the general fund.

Representative Porter: I am ok with if we limit it with a ceiling. I am ok with it now.

Chairman Weisz: Connie could you come up to the podium?

Chairman Weisz: You were on the board of nursing for a long time. On that board how did you deal with fines? Did you fine some of your licensees and what did you do with the money?

Connie Kalanek: Yes the board did set a fee for a violation of practice act. Each violation for example could be up to \$300.

Chairman Weisz: That was set in your rule?

C. Kalanek: Yes, it went back into the board's fund. It was an independent board.

Chairman Weisz: Motion before us to not exceed \$500'
Any further discussion? Seeing none. We will try a voice vote.

Voice vote carried.

Chairman Weisz: Are there any other amendments on SB 2141? If not, I will entertain a motion.

Representative Porter: I move for a do pass as amended

Representative Skroch: second

Chairman Weisz: Is there any further discussion. Seeing none the clerk will call the roll for a do pass as amended on SB 2141.

Roll call vote taken Yes 13 No 0 Absent 1
Motion carried, do I have a volunteer?

Representative Devlin, thank you.

DRAFT AMENDMENTS TO SENATE BILL 2141

Page 7, line 28, after "licensed" insert ", certified,"

DRAFT AMENDMENTS TO SENATE BILL 2141

Page 10, line 27, after the period, insert "The board's rule must allow supervision of board certified behavioral analysts by professionals with equivalent or greater training."

3/27/17 80

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Adopted by the Human Services Committee

March 27, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2141

Page 7, line 28, after "licensed" insert ", certified."

Page 10, line 27, after the underscored period insert "The board's rule must allow for supervision of board certified behavioral analysts by professionals with equivalent or greater training."

Page 13, line 19, after "fines" insert ", not to exceed five hundred dollars."

Renumber accordingly

Date: 3/27/17
Roll Call/Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2141

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: Line 28 on page 7 after
"licensed" insert "certified"

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Skroch Seconded By Rep. D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/27/17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2141

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: page 10 line 27

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Devlin Seconded By Rep. Schneider

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/27/17
Roll Call Vote #: 3

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2141

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: "not to exceed \$500" inserted after "chapter" on page 13 line 20

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/27/17
Roll Call Vote #: 4

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3B2141

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. Skroch

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	✓	
Vice Chairman Rohr	✓		Rep. Schneider	✓	
Rep. B. Anderson	absent				
Rep. D. Anderson	✓				
Rep. Damschen	✓				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams	✓				
Rep. Porter	✓				
Rep. Seibel	✓				
Rep. Skroch	✓				
Rep. Westlind	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Devlin

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2141: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2141 was placed on the Sixth order on the calendar.

Page 7, line 28, after "licensed" insert ", certified,"

Page 10, line 27, after the underscored period insert "The board's rule must allow for supervision of board certified behavioral analysts by professionals with equivalent or greater training."

Page 13, line 19, after "fines" insert ", not to exceed five hundred dollars,"

Renumber accordingly

2017 TESTIMONY

SB 2141

Testimony of Howard C. Anderson Jr. on Senate Bill No. 2141
January 31, 2017 before the Senate Human Services Committee.
Senator Judy Lee Chair.

Madam Chair Lee and members of the Senate Human Services
Committee.

I have introduced this bill at the request of the Board of Psychologist
Examiners. It is as an effort to respond to the review done during the
interim on all mental health boards. The intent is to make it just a little
easier for licensees to get their internship, become licensed and get to
work.

We have heard from or about, several Mental Health licensing boards
this session and I trust you will ask the psychologists similar questions
we have addressed with the others.

I would like to introduce Dr. Kolstoe a representative of the Board who
will explain the content and specifics of the bill to you and answer your
questions.

Thank you,

Howard

SB2141
Attach #2
1/31

**Testimony on SB2141 – Bill to Amend Regulation of Psychologists
ND State Board of Psychologist Examiners
Human Services Committee
Senator Judy Lee, Chairman
January 31, 2017 - 11:15 am**

Chairman Lee, members of the Senate Human Services Committee, I am Dr. Paul Kolstoe, representing the Board of Psychologist Examiners today. I am a Psychologist, licensed under Chapter 43-32 of the ND Century Code. The Board appreciates the sponsorship of Senator Anderson and Representative Blum of this bill that primarily addresses organizational efficiencies and housekeeping. I am here today to provide you with explanations about the proposed changes to the statutes regulating the practice of psychology.

HISTORY

The ND State Board of Psychologist Examiners ["Board"] was created by the 1967 Legislative Assembly to license psychologists, and now industrial organizational psychologists, applied behavior analysts, and register applied behavior analysts. Our mission is to protect the health, safety, and welfare of the public through the regulation of the practice of psychology and behavior analysis within the State of North Dakota by licensing and registering practitioners, auditing continuing education activities, and enforcing legal and ethical requirements for the delivery of psychological and behavior analysis services. At present we have 245 licensed psychologists, 19 behavior analysts and 4 registered behavior analysts.

GENERAL OVERVIEW

The Board met on December 19th 2016, to finalize legislative change recommendations embodied in SB2141. In the last legislative session,

2141
#2

1/31

House Bill 1048 directed six behavioral health boards (representing Psychology, Social Work, Counseling, Addiction Counseling, Marriage and Family Therapy, and Medicine) to collaborate on strategies to seek consistency and efficiency in licensing qualified professionals across these regulatory boards. The collective and individual reports were presented to the legislative Interim Human Services Committee, and specific recommendations from that effort are embedded in this legislation.

The purpose of this legislation, in general terms, is three-fold:

- 1) improve efficiencies and streamline application for licensure and registration for qualified psychology and behavior analysis applicants on behalf of North Dakota citizens;
- 2) emphasize, simplify, and clarify standards that maintain necessary public protection and further facilitate efficiencies in board operations; and
- 3) modernize the statute by eliminating references to external authorities, other disciplines, and irrelevant definitions. The Board enthusiastically supports the goals of this proposed legislation.

EXPLANATION OF CHANGES PROPOSED

A quick explanation of the changes proposed in SB2141 is provided in the text of this testimony.

On page one, the definition of Autism Spectrum Disorder is proposed to be removed. It was included in the 2011 amendments that created regulation of applied behavior analysis, as some thought the diagnosis was relevant. While providing professional services to individuals with ASD is within our scope of practice, the listing of specific medical

2141
#2
1/31

conditions is generally not found in regulatory aspects of Century Code. Simply - there are many, many other conditions that our licensees provide care on that would also potentially be defined here – not the least of which would be intellectual and developmental disabilities, for example. Such conditions are seemingly better and more effectively addressed elsewhere in eligibility and provider guidelines and other places rather than in professional regulatory law and administrative code.

On page three, the changes proposed simplify language to make expectations clearer for psychology residents without substantially changing the meaning. We anticipate that this change will help applicants more readily understand what is required of them and by doing so, allow the Board to more quickly and efficiently grant residency status.

Later on page three and also on page four, a proposed change clarifies basic Board membership addressing the non-practitioner member added by the legislature in the last session and explicitly enables appointment of licensed behavior analysts to the Board. Other proposed changes allow Board members the opportunity to seek reimbursement for actual costs incurred for their volunteer work, explicitly highlight contracting for office services, and eliminates the ministerial requirement of a separate Board seal.

Proposed changes on page five clarify the meaning of sponsorship of continuing education and emphasizes that the application fee is not refundable, as it always has been, now in simple, clear language.

Later changes proposed on pages five and six are directly from the work generated by the 2015 HB1048 regarding behavioral health board

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efficiency recommendations. Specifically, use of technology is made explicit, clarifies reinstatement of lapsed licenses and registrations, and updates demographic information to useful formats for record keeping. On page seven, the individual changes proposed simplify and clarify the language about applied behavior analysts.

The work of the HB1048 behavioral health boards is reflected in proposed changes from the bottom of page seven, through page eight and the top of page nine. These align specific requirements with the other behavioral health boards, as agreed upon in response to HB1048, and improve efficiency by enabling, simplifying, and clarifying expedited licensure for qualified applicants with appropriate credentials in other jurisdictions.

Proposed changes from the middle of page nine and top of page ten simplify information for applicants and remove references to sources separate from Century Code that we have been advised to be poor practice by legislator feedback and our attorney.

On page ten the requirements for applied behavior analysts are relocated to this section of the statute from later subsections, which are specifically repealed at the end of the bill. This is the place in the statute that authorizes licensing and registration with all disciplines, such as psychology and industrial-organizational psychology. Again, this is done for clarity, consistency, and readability but does not make any substantive changes. To be very clear, we are proposing more inclusive language for behavior analysis applicants and places the statutory language related to this profession where perhaps it should have been all along, not removing behavior analysis from the law.

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1/31

The next series of proposed changes, on pages 11, 12, and 13 simplifies and clarifies the language of routine Board responsibilities in the application process without any substantive changes.

On page 15, proposed changes align the qualifications of those receiving training with the working credentials of their mentors. This is consistent with other national standards to improve the mobility of providers into North Dakota. On line 22, current law requires the Board to establish standards for school psychologists through mutual consent with the Superintendent of the Department of Public Instruction. However, existing administrative code has moved this authority to the Education Standards and Practices Board (ESPB) – which is the appropriate authority now identified with this proposed change.

The next proposed change, at the bottom of page 15 and top of 16, eliminates an exemption subsection replaced by earlier changes. The proposed earlier subsection provides for Expedited licensure and registration of professionals appropriately credentialed in other jurisdictions. With the earlier proposed Expedited licensing subsection in place – consistent with the HB1048 recommendations - this exemption would no longer be appropriate or necessary.

The other two subsections proposed to be eliminated on page 16 have been found to be unnecessary and redundant. Other professionals and disciplines use principles of applied learning theory in their work, and their scope of practice and appropriate use of professional titles and credentials make these sections irrelevant. These subsections can be confusing to the public because they attempt to refer to unrelated disciplines in the psychology and behavior analysis statute. Their

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elimination makes no change in practices of any of the professionals, such as program coordinators, teachers, and occupational therapists.

Finally, the contents of the applied behavior analysis subsections are proposed to be more appropriately relocated within the licensing and registration subsections with other disciplines addressed in this statute. As such, the last two sections are repealed – given the other changes proposed in this bill – without any substantive changes in the regulation of applied behavior analysis.

CLOSING

The Board of Psychologist Examiners supports the efforts of the legislation proposed. With the passing of this bill, licensing of psychologists and applied behavior analysts, and registration of applied behavior analysts, would continue uninterrupted and with greater efficiency for appropriately qualified applicants. We appreciate this opportunity to: 1) streamline application processes; 2) emphasize, simplify, and clarify public protection while creating operational efficiencies; and 3) modernize references in the statute.

I would be happy to answer any questions.

Att. 1 3-6-17
SB 2141

Testimony of Howard C. Anderson Jr. on Senate Bill No. 2141

March 6th, 2017 9:30 AM in the Fort Union Room before the House Human Services Committee. Representative Robin Weisz Chairman.

Chairman Weisz and members of the House Human Services Committee.

I have introduced this bill at the request of the Board of Psychologist Examiners. It is as an effort to respond to the review done during the interim on all mental health boards. The intent is to make it just a little easier for licensees to get their internship, become licensed and get to work.

You have heard or will hear from or about, several Mental Health licensing boards this session and all have made progress toward the shared goal. I trust you will find the psychologists have made similar progress.

Dr. Kolstoe a representative of the Board is here to explain the content and specifics of the bill to you and answer your questions.

The House sponsor of this bill, Representative Blum is from Dr. Kolstoe's District and has agreed to help with the Bill here.

Thank you,

Howard

AH.2
SB2141
3-6-17

**Testimony on SB2141 – Bill to Amend Regulation of Psychologists
ND State Board of Psychologist Examiners
House Human Services Committee
Representative Robin Weisz, Chairman
March 6, 2017 - 9:30 am**

Chairman Weisz, members of the House Human Services Committee, I am Dr. Paul Kolstoe, representing the Board of Psychologist Examiners today. I am a Psychologist, licensed under Chapter 43-32 of the ND Century Code. The Board appreciates the sponsorship of Representative Blum and Senator Anderson of this bill that primarily addresses organizational efficiencies and housekeeping. I am here today to provide you with explanations about the proposed changes to the statutes regulating the practice of psychology.

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GENERAL OVERVIEW

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The purpose of this legislation, in general terms, is three-fold:

- 1) improve efficiencies and streamline application for licensure and registration for qualified psychology and behavior analysis applicants on behalf of North Dakota citizens;
- 2) emphasize, simplify, and clarify standards that maintain necessary public protection and further facilitate efficiencies in board operations; and
- 3) modernize the statute by eliminating references to external authorities, other disciplines, and irrelevant definitions. The Board enthusiastically supports the goals of this proposed legislation.

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A quick explanation of the changes proposed in SB2141 is provided in the text of this testimony.



On page one, the definition of Autism Spectrum Disorder is proposed to be removed. It was included in the 2011 amendments that created regulation of applied behavior analysis, as some thought the diagnosis was relevant. While providing professional services to individuals with ASD is within our scope of practice, the listing of specific medical conditions is generally not found in regulatory aspects of Century Code. Simply - there are many, many other conditions that our licensees provide care on that would also potentially be defined here – not the least of which would be intellectual and developmental disabilities, for example. Such conditions are seemingly better and more effectively addressed elsewhere in eligibility and provider guidelines and other places rather than in professional regulatory law and administrative code.

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Proposed changes on page five clarify the meaning of sponsorship of continuing education and emphasizes that the application fee is not refundable, as it always has been, now in simple, clear language.

Later changes proposed on pages five and six are directly from the work generated by the 2015 HB1048 regarding behavioral health board efficiency recommendations. Specifically, use of technology is made explicit, clarifies reinstatement of lapsed licenses and registrations, and updates demographic information to useful formats for record keeping. On page seven, the individual changes proposed simplify and clarify the language about applied behavior analysts.

The work of the HB1048 behavioral health boards is reflected in proposed changes from the bottom of page seven, through page eight and the top of page nine. These align specific requirements with the other behavioral health boards, as agreed upon in response to HB1048, and improve efficiency by enabling, simplifying, and clarifying expedited licensure for qualified applicants with appropriate credentials in other jurisdictions.

Proposed changes from the middle of page nine and top of page ten simplify information for applicants and remove references to sources separate from Century Code that we have been advised to be poor practice by legislator feedback and our attorney.

On page ten the requirements for applied behavior analysts are relocated to this section of the statute from later subsections, which are specifically repealed at the end of the bill. This is the place in the statute that authorizes licensing and registration with all disciplines, such as psychology and industrial-organizational psychology. Again, this is done

for clarity, consistency, and readability but does not make any substantive changes. To be very clear, we are proposing more inclusive language for behavior analysis applicants and places the statutory language related to this profession where perhaps it should have been all along, not removing behavior analysis from the law.

The next series of proposed changes, on pages 11, 12, and 13 simplifies and clarifies the language of routine Board responsibilities in the application process without any substantive changes.

On page 15, proposed changes align the qualifications of those receiving training with the working credentials of their mentors. This is consistent with other national standards to improve the mobility of providers into North Dakota. On line 22, current law requires the Board to establish standards for school psychologists through mutual consent with the Superintendent of the Department of Public Instruction. However, existing administrative code has moved this authority to the Education Standards and Practices Board (ESPB) – which is the appropriate authority now identified with this proposed change.

The next proposed change, at the bottom of page 15 and top of 16, eliminates an exemption subsection replaced by earlier changes. The proposed earlier subsection provides for Expedited licensure and registration of professionals appropriately credentialed in other jurisdictions. With the earlier proposed Expedited licensing subsection in place – consistent with the HB1048 recommendations - this exemption would no longer be appropriate or necessary.

The other two subsections proposed to be eliminated on page 16 have been found to be unnecessary and redundant. Other professionals and disciplines use principles of applied learning theory in their work, and their scope of practice and appropriate use of professional titles and credentials make these sections irrelevant. These subsections can be confusing to the public because they attempt to refer to unrelated disciplines in the psychology and behavior analysis statute. Their elimination makes no change in practices of any of the professionals, such as program coordinators, teachers, and occupational therapists.

Finally, the contents of the applied behavior analysis subsections are proposed to be more appropriately relocated within the licensing and registration subsections with other disciplines addressed in this statute. As such, the last two sections are repealed – given the other changes proposed in this bill – without any substantive changes in the regulation of applied behavior analysis.

CLOSING

The Board of Psychologist Examiners supports the efforts of the legislation proposed. With the passing of this bill, licensing of psychologists and applied behavior analysts, and registration of applied behavior analysts, would continue uninterrupted and with greater efficiency for appropriately qualified applicants. We appreciate this opportunity to: 1) streamline application processes; 2) emphasize, simplify, and clarify public protection while creating operational efficiencies; and 3) modernize references in the statute.

I would be happy to answer any questions.

att 3 3-6-17
SB 2141

My name is Tara Geigle and I live in Bismarck. I have a few concerns with changes that are not being made or mentioned and one change that is being proposed. A brief background is that I began my doctorate in clinical psychology (PsyD) in 2009 in California and my internship in Nebraska, completing my program in 2014. I have known since approximately 2007 that I would be moving to North Dakota. At that time ND was not requiring APA and CPA accredited programs only, therefore I was not as concerned if the program I attended was APA accredited. The main location of my graduate school (The Chicago School of Professional Psychology in Chicago) is regionally accredited and the program is APA accredited, however my branch (in Los Angeles, CA) is regionally accredited but was new and in the process of obtaining APA program accreditation. When applying to postdoctoral positions in Bismarck during the winter of 2013 I realized that the laws had changed and an APA or CPA accredited program was required. I have spent about two years talking to numerous individuals trying to create alternative scenarios to acquiring licensure and have not been able to come to a reasonable solution. For this reason, I have been driven to make changes to the century and administrative codes in hopes of developing reasonable solutions that will allow more mental health professionals who have worked hard to meet the requirements be able to serve the ND population.

In trying to use my degree for becoming licensed and help serve a population in need of more mental health providers I have spoken with UND, a Board of Psychology member and receptionists, several other mental health providers, other states, ND state representatives, senators, the Board of Counseling, and Board of Psychology. In short, I have been told or suggested to either re-attend a school that has an APA accredited program, become licensed in a different state, or use my degree to obtain other employment that does not require a license (i.e. teaching, etc.). I have been teaching at University of Mary and working with the Alzheimer's Association and other organizations in town. Although these may seem as options to some it is difficult to have spent 5 years working extremely hard to serve the population of North Dakota, to be told that your education is not good enough and will not even be considered, especially when this was not a requirement when I started school. As well as, I have offered to take additional classes or meet other requirements with my own money and time, but still not be able to be considered.

Besides my difficulties, as well as several others, the state and other professionals continue to discuss the lack and desperate need of mental health professionals, as well as offering loan forgiveness to others who may come to work in ND and have their loans forgiven but not have any desire to serve this population or to stay in the state. I believe the stigma of mental health is perpetuated in this state due to the lack of providers, which seems to show North Dakotans that the state does not find mental health as necessary as other professions, when we know this is not the truth.

I am seeking an alternative to those who may have had situations that require them to live in North Dakota to be able to practice the profession that they trained so hard to provide. North Dakota is one of four states (ND, OK, GA, FL) that require only APA or CPA program accreditation. There are 22 other states that allow APA and CPA accredited programs, AND degrees from regionally accredited schools to meet requirements, and 24 states that have other specified class work and training requirements. Below I have examples from three other surrounding states (MN, MT, and SD) as to what is written on their website as "education requirements" and the respective century code.

I am aware that the senate has already passed this bill, however I was not able to testify due to postponement of the committee meeting to the afternoon which conflicted with my employment obligations. I believe that there are some minor changes that could be made that would have a major impact on completing the task that the Board of Psychology has been asked to do by legislation in being able to acquire more qualified mental health professionals to serve and meet the

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needs of North Dakotans. After discussion with several individuals some options that seem valid for making changes are the following: (the first three related to this bill and the other are possible ideas for consideration)

1. **Eliminate the word “accredited as”; and replacing “by an accrediting body” to “and” from NCC 43-32-20 (b)- page 9; then the board can adjust the administrative code to allow for less restrictive requirements regarding education. I know they have pressure from the APA, however they can follow wording from other states, such as wording NDCC 43-32-20 (b) similar to that of SD, MN, or MT**
2. **Amend Expedited Licensure NDCC 43-32-19.1 (a)- page 7 changes to “Confirming graduation from an accredited SCHOOL in the degree of licensure or registration for which the individual is applying in this state; OR STANDARDS ESTABLISHED AND MET BY THE BOARD”. I understand the Board of Psychology was using wording requested by the medical board, however it is not matching wording throughout the codes**
3. Is there any way to allow for those who began schooling before the law changed to be an exception? This may not be a possibility
4. There was a Masters in Psychology license provided by one state (and possibly more) that may be an option to add with restrictions
5. Add the word “psychology” after “college in counseling” to NDCC 43-47-06 (2a) and to NDAC 97-02-01-02 after “counseling and development, and counseling psychology” so individuals could have the opportunity to apply for a Masters license (I know this relates to the Board of Counselors)

Thank you for your time and consideration in this matter as these small changes could make an drastic difference in not only my life and career, but also the lives of numerous other mental health professionals in ND to achieve the ultimate goal of providing high quality mental health services to the people of our state that we all know is so desperately needed.

OTHER STATE EXAMPLES:

Minnesota:

On website:

A prospective psychologist must earn a doctoral degree with a ‘psychology major’ from a regionally accredited institution.

A program that is accredited by the American Psychological Association or Canadian Psychological Association is deemed to meet coursework requirements. Otherwise, the candidate will need to document the following:

- There must be six semester hours of coursework in research design, psychological measurement theory, and statistics (with at least one semester hour in each of these three core areas).
- There must be six semester hours in problem identification. Topics may include assessment, evaluation, and/ or data collection.
- There must be six semester hours in problem solution. Topics may include psychological intervention and/ or data analysis.

Additionally, there must be three semester hours in each of the following content areas:

- Human development and personality theory
- Human diversity
- Cognitive-affective basis of behavior
- Biological basis of behavior
- Social basis of behavior
- Ethics and conduct

The license application packet includes a list of courses that are typically accepted as meeting license requirements as well as courses that are commonly excluded. Courses that focus on particular stages of the lifecycle may be accepted for the human development requirement. Courses in animal learning may be accepted as satisfying the requirement for cognitive-affective bases of behavior. However, courses that approach ethics from a philosophical perspective do not meet the ethics requirement. Courses in family therapy or couples therapy do not satisfy the coursework requirements for social bases of behavior. A candidate who has coursework deficiencies will be allowed to make up as many as 12 semester hours without enrolling in an organized or sequential program.

The doctoral student must complete 384 clock hours or 24 semester hours in residency over a 12-month period.

Minnesota law:

148.907 LICENSED PSYCHOLOGIST. Subdivision 1. Effective date. After August 1, 1991, no person shall engage in the independent practice of psychology unless that person is licensed as a licensed psychologist. Subd. 2. Requirements for licensure as licensed psychologist. To become licensed by the board as a licensed psychologist, an applicant shall comply with the following requirements: (1) pass an examination in psychology; (2) pass a professional responsibility examination on the practice of psychology; (3) pass any other examinations as required by board rules; (4) pay nonrefundable fees to the board for applications, processing, testing, renewals, and materials; (5) have attained the age of majority, be of good moral character, and have no unresolved disciplinary action or complaints pending in the state of Minnesota or any other jurisdiction; (6) have earned a doctoral degree with a major in psychology from a regionally accredited educational institution meeting the standards the board has established by rule; and (7) have completed at least one full year or the equivalent in part time of postdoctoral supervised psychological employment.

Montana:

On website:

There are three routes to licensure:

- A doctoral program accredited by the American Psychological Association (APA)
- A doctoral program and an APA retraining program
- A doctoral program and a course of study that meets requirements established by the Montana Board

An approved psychology program will be a coherent entity within a regionally accredited school. A psychologist is to have responsibility for the program.

There must be at least 60 semester hours of formal graduate study in psychology. Excluding practicum, dissertation, and transfer credit, there must be at least 30 semester hours.

The program must cover statistics and psychometrics, professional standards and ethics, and research design and methodology.

There must be substantive coursework in individual difference and in social, cognitive-affective, and biological bases of behavior.

There must also be adequate training in assessment, diagnosis, and treatment. Graduates should be familiar with major techniques and their theoretical bases. They should be able to carry out multiple types of assessments.

The program must incorporate appropriate supervised work experiences. There are to be at least two semesters of practicum

Montana law:

37-17-302. Qualifications. The board shall license as a psychologist any person who pays the prescribed fee, passes the prescribed examination, and submits evidence that the person:

- (1) is 18 years of age or older;
- (2) is of good moral character;
- (3) (a) has received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American psychological association;
- (b) has received a doctoral degree in psychology from an accredited college or university not approved by

the American psychological association and has successfully completed a formal graduate retraining program in clinical psychology approved by the American psychological association; or

(c) has received a doctoral degree in psychology from an accredited college or university and has completed a course of studies that meets minimum standards specified in rules by the board; and

(4) has completed at the time of application a minimum of 2 years of supervised experience in the practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both.

History: En. Sec. 8, Ch. 73, L. 1971; amd. Sec. 25, Ch. 94, L. 1973; amd. Sec. 317, Ch. 350, L. 1974; R.C.M. 1947, 66-3208(1), (2); amd. Sec. 3, Ch. 347, L. 1987; amd. Sec. 4, Ch. 671, L. 1991; amd. Sec. 1, Ch. 362, L. 1995; amd. Sec. 57, Ch. 467, L. 2005.

South Dakota:

On website:

Psychologists must hold doctoral degrees. If the school is in the United States, it must hold regional accreditation; if in Canada, it must be in good standing with the Association of Universities and Colleges of Canada.

The following are acceptable U.S. accrediting agencies:

- Middle States Association of Colleges and Schools
- New England Association of Schools and Colleges
- North Central Association of Colleges and Schools
- Northwest Commission on Colleges and Universities
- Southern Association of Colleges and Schools
- Western Association of Schools and Colleges

On the license application, graduates must document coursework in individual differences and in biological, cognitive-affective, and social bases of behavior.

South Dakota law:

36-27A-12. Qualifications for license. The board shall issue a license as a psychologist to an applicant who:

(1) Has a doctoral degree from a regionally accredited university or professional school of psychology, or is recognized by the Association of Universities and Colleges of Canada as a member in good standing;

(2) Has passed any examination specified by the board for this purpose;

(3) Has had a supervised psychology internship amounting to not less than one thousand eight hundred hours in duration over a period of not more than two consecutive calendar years. The board shall specify, by rules promulgated pursuant to chapter 1-26, the nature of an acceptable supervised psychology internship;

(4) Has had one year of supervised postdoctoral psychology practice. The board shall specify, by rules promulgated pursuant to chapter 1-26, the nature of an acceptable postdoctoral year of supervised psychology practice; and

(5) Has not been convicted of a felony or a misdemeanor involving moral turpitude as defined in subdivision 22-1-2(25).

Source: SL 1976, ch 235, §§ 18, 20; SDCL Supp, § 36-27-21; SL 1981, ch 281, § 12; SL 1985, ch 301; SL 2008, ch 197, § 5.

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Testimony from: Manisha Sawhney, Ph.D.

I applied for psychologist licensure to the ND Board in 2008, and was their first international applicant. My licensure application was denied stating the reason, "the degree is **not substantially psychological** in nature". I was frustrated by the board's response, since I went to a well-recognized University in India, which awards doctoral degree in **psychology since the 1970s**, (<http://www.du.ac.in/du/index.php?page=psychology>) , and on further enquiry from the board was told, ND Board grants license to only APA degrees. Since my PhD was completed in India, and not in the U.S. it could not have been APA accredited, as APA accreditation is only in the U.S. I was hoping the board would review my application and maybe recommend I accrue more clinically supervised hours or complete some coursework which the board deemed necessary. However, nothing of the kind happened, since the only requirement by ND board which I did not meet was "APA". My education/work credentials are as below:

1. PhD psychology from Delhi University, India.
2. 1 year internship in India, working with depressed and anxious patients.
3. 6 years of research experience in the field of Health Psychology and military, India.
4. For the past 3 years, Assistant Professor of Psychology, University of Mary.

After my application was denied, I tried to understand the licensure process for other states, which have more non-U.S. degree applicants. I reviewed California board requirements and Ohio psychology board requirements. Both the states have clear instructions for non-U.S. degree holders, and evaluate and accept foreign applicants if the degree has been evaluated for equivalency by National Association of Credential Evaluation Services (NACES), and the school is listed in either the International Handbook of Universities or the Commonwealth Universities Yearbook (my application met both the criterion). I have copied below both Ohio Board and California Psychology board requirements for non-U.S. degree applicants, and the description for "Registered Psychologists" in California Board, which could be another possible option for a foreign candidate to accrue supervisory hours.

LICENSE APPLICANTS WITH NON-U.S. DOCTORAL DEGREES (Ohio Board)

State law, administrative rules, and Board policy guide the application review process for applicants with a doctoral degree from an educational institution outside of the U.S.

Applicants must be aware of the following and should be prepared for a potentially lengthy process whereby the Board determines whether a non-U.S. degree is equivalent to a doctoral degree in psychology or school psychology from an accredited institution of higher education in the U.S.:

- 1) *The institution shall be listed in either the **International Handbook of Universities or the Commonwealth Universities Yearbook**.*
- 2) *The applicant must have the **education reviewed for equivalence by an academic review company that is a member of "NACES,"** as described at <http://www.naces.org/>. this review is done at the applicant's expense.*
- 3) *If the education is determined by a NACES-member company to be equivalent to a doctoral degree from a U.S. institution, then the applicant shall request from the Board a review of the transcript and education for a determination as to whether the Board's rules for equivalence are satisfied. If not found to be equivalent by a member of NACES, then the application shall be denied.*
- 4) *A **determination of doctoral degree equivalence by a member of NACES is generally sufficient for admission to the EPPP**. In addition to passing the EPPP, supervised experience requirements for licensure are*

governed under OAC § 4732-9-01(A)(2), which requires two years of documented supervised experience under a psychologist licensed by U.S. jurisdiction or Canadian province.

Qualifications for Licensure as a Psychologist(California)

1. YOUR RESPONSIBILITY

It is your responsibility to know the requirements for licensure set forth in statute and regulation. To accomplish this, you must review this page and other relevant documents listed in the application for licensure as a psychologist. Failure to review and understand these documents may adversely affect application approval.

2. EDUCATIONAL REQUIREMENTS

a. Named Degrees

Section 2914 of the Business and Professions Code (Code) provides that individuals who possess an earned doctorate degree in psychology, educational psychology, education with a field of specialization in counseling psychology or education with a field of specialization in educational psychology from an approved or accredited educational institution meet the educational requirements for licensure.

b. Equivalent Degrees

For all applications received on or after January 1, 2001, the Board no longer has the authority to review degrees for equivalency. Therefore, all applicants applying for licensure on or after January 1, 2001, must possess one of the three degrees named in Section 2914 of the Code.

c. Foreign Degrees

Section 2914(b) of the Code states that applicants with degrees from schools outside the United States and Canada must provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation the board deems necessary.

What is a "Registered Psychologist"?

The designation of "registered psychologist" is authorized by Section 2909.5 of the California Business & Professions Code. The registered psychologist designation is intended to be a method by which an unlicensed person can perform limited psychological functions to accrue hours of supervised professional experience. In order for an unlicensed person to perform psychological functions at a non-profit community agency he or she must be approved as a registered psychologist by the Board.

To become a registered psychologist, one must possess a doctoral degree which qualifies for licensure as a psychologist and have accrued at least 1500 hours of qualifying supervised professional experience.

In order for a nonprofit community agency to qualify as an employer of a registered psychologist, it must verify that its funding includes a minimum of 25% from governmental sources other than Medi-Cal/Medi-Care. Registered psychologists shall at all times be under the primary supervision of a qualified licensed psychologist who is employed by the same non-profit community agency.

The registered psychologist is a two and a half-year, nonrenewable registration. A person may be registered concurrently as a registered psychologist at more than one qualifying nonprofit community agency.

I also gathered nationwide (reached 38 states) information about the criterion set forth by psychology boards for foreign educated applicants and have attached the document for you. Please feel free to review it and contact me for further questions. If possible, I would like to be involved with this draft, and would be happy to answer any question you have. Again, thank you for providing me with this opportunity.



SNO.	State	Detail how your board handles the licensure process for applicants with foreign degrees/credentials:
1	ND	We no longer accept foreign degrees/credentials - NDCC 43-32-20 requires a degree from an APA, CPA, or ASPPB/NR Designated Program.
2	California	An applicant for licensure as a psychologist in California trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that he or she possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) , and any other documentation the board deems necessary.
3	Alabama	Same as all other applicants. Will accept regional accreditation equivalency as certified by an international credential evaluation service
4	Alaska	No Response
5	Arizona	Arizona Administrative Code R4-26-211. Foreign Graduates. A. Under A.R.S. § 32-2071(B), an applicant for licensure whose application is based on graduation from a foreign institution of higher education shall provide the Board with documents and evidence to establish that the applicant's formal education is equivalent to a doctoral degree in psychology from a regionally accredited institution as described in A.R.S. § 32-2071(A). B. An applicant shall provide the following information to the Board: 1. An original and a copy of the doctoral diploma or certificate of graduation. The original shall be returned, and the copy shall be retained by the Board; 2. An official transcript or comparable document recording all course work completed, containing an original university seal; 3. A certified English translation of all documents submitted; 4. Evidence of completion of the requirements of A.R.S. § 32-2071(C),(D), and (E); and 5. Evidence that the doctoral dissertation or project was primarily psychological. The Board may require the applicant to submit the doctoral dissertation or project.
6	Arkansas	Same as for a regular licensee, but first must have their transcripts evaluated by a recognized Agency.
7	California	An applicant for licensure as a psychologist in California trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that he or she possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) , and any other documentation the board deems necessary.
8	Colorado	Foreign-trained applicants must submit educational credentials to a credentialing agency utilized by the Board for evaluation of equivalency. After course equivalency is established, the Board will evaluate the educational credentials to determine whether or not the program is equivalent to an APA-approved program.
9	Connecticut	The program shall be offered by an institution of higher education approved to grant degrees at the doctoral level by the appropriate governmental or government-recognized body of the jurisdiction in which it is located. The applicant shall be required to demonstrate that the degree granted is equivalent in level and content to a doctoral degree in psychology as granted by an approved United States program, as defined by these regulations. The applicant shall be responsible for providing official documentation of educational program, translations of any non-English language documentation, and professional evaluations of educational credentials by a credentials evaluation service designated by the Department.
10	Delaware	Persons holding degrees from programs outside the United States or its territories must provide evidence of training equivalent to accredited programs; and these applicants are responsible for providing the Board with an educational evaluation from an agency or institution recognized by the Board for this purpose.
11	Florida	Applicants who received their education outside of the United States or Canada and who apply using one of the following methods are required to submit the following items. You may refer to the application instructions for a complete list of

		each application method. • Foreign educated applicants must have their educational credentials evaluated by a service acceptable to the Board of Psychology in addition to the criteria of Rule 64B19-11.0035, F.A.C. A list of services is available in the application instructions. • If you were awarded your degree from an institution outside Canada, a letter of APA comparability of your program is required. You may refer to Rule 64B19-11.0035, F.A.C.
12	Georgia	Foreign degrees deemed equivalent are acceptable.
13	Hawaii	An applicant trained in an institution other than an institution of higher education as defined in this chapter must demonstrate to the satisfaction of the board that the applicant possesses a doctoral degree in psychology, the requirements for which are substantially similar to the requirements for a doctoral degree in professional psychology as required in this chapter. The board shall consider the certification of the graduate division of the University of Hawaii that the degree from the foreign university is equivalent to a doctoral degree granted from an institution of higher education as defined in this chapter.
14	Idaho	No information provided
15	Illinois	No information provided
16	Indiana	Board review
17	Iowa	In accordance with 645 IAC 240.3(5), the following are required: 1) an equivalency evaluation of educational credentials by the Board of Psychology or by an evaluation service with membership in NACES; 2) a notarized copy of the certificate or diploma from the psychology program; 3) submit evidence of meeting all other requirements for licensure state receive a final determination from the Board.
18	Kansas	The applicant has their program evaluated for Kansas equivalency by a company that is qualified to do so.
19	Louisiana	Foreign applicants must meet the same criteria as U.S. applicants. For additional information see LAC. Title 46 Part LXIII. §303.D.
20	Maine	If a program is not approved by APA, CPA, or NASP, or on the ASPPB/NR joint designation list, then rules require the candidate to submit his or her diploma and academic transcript, supervised experience and recommendations to a member of the National Association of Credential Evaluation Services . The evaluation service shall translate the documents as necessary and shall evaluate the applicant's academic credentials against the approval criteria listed in the board's rules
21	Maryland	Documentation must be received from a credentialing agency stating that their education and experience is equivalent to our requirements
22	Massachusetts	Foreign graduates must have their degree evaluated by a credential evaluation service (as recommended by the board) to determine its equivalency. If equivalent to a US doctoral degree in clinical/counseling psychology, applicant must meet all requirements (which may require additional doctoral courses), and all supervised experience must occur in the US
23	Michigan	Must have their education credentialed by an agency that is accredited by NACES . If education is equivalent to a US regionally accredited degree and all other licensure requirements are met, the license is issued.
24	Minnesota	A degree from a Canadian institution regulated by the provincial government shall be accepted as meeting standards for accreditation of a domestic institution. If the degree is from another country, at least two Board members shall evaluate the degree and recommend admission of the applicant to examination if: the institution is chartered, a degree program leading to the equivalent of a doctoral degree in psychology as specified in Minnesota Rules and the courses are equivalent to programs and courses offered by regionally accredited domestic institutions as determined by the board; the subject matter and number of hours necessary to receive credit for a program or course; the program leading to the degree must have been in existence for at least 10 years and must be recognized by the central government of the country in which the institution is located as entitling the holder of the degree to practice psychology in that country; and the major requirements for licensure in MN. The cost of translation and documentation services shall be borne by the applicant.

25	Mississippi	RULE 4.5: TRANSCRIPT FROM APPLICANTS WITH DEGREES FROM FOREIGN SCHOOLS. When the applicant is a graduate of doctoral level training program outside of the United States or Canada the applicant must provide a transcript evidencing that the applicant has received a doctoral degree from a program of psychology that meets recognized acceptable professional standards as determined by the Board. Such transcript shall bear the official seal or mark of the registrar of the educational institution. It is the responsibility of the applicant to see that such record is sent directly from the institution to the Board office. No action will be taken on any application until such transcript is received.
26	Missouri	statute 337.010 (6)(b) and rule 20 CSR 2235-1.045 (2) The applicant shall furnish competent and substantial evidence, admissible in the courts of Missouri that the educational institution is substantially equivalent to the standards of training of those programs accredited by a regional accrediting association recognized by the CHEA.
27	Montana	Applicant must apply to the National Register for evaluation of psychology degree equivalency. National Register Board with completed application. Applicant must also have graduated from an undergraduate program taught complete Level 8 of International English Testing System (IELTS).
28	Nebraska	In the United States, is regionally accredited by a regional or professional accrediting organization recognized by the United States Department of Education; (2) In Canada, holds a membership in the Association of Universities and Colleges of Canada; or (3) In other countries, is accredited by the respective official organization having such authority. Foreign degrees must be evaluated by a board recognized foreign educational credentialing evaluation services. The applicant must meet all the same requirements as an initial licensee or reciprocal licensee.
29	Nevada	They must have their program evaluated by an organization that reviews international degrees before applying for licensure . Then each is treated as an initial psychologist applicant.
30	New Hampshire	No information
31	New Jersey	All coursework needs to be checked for equivalency by a member organization of N.A.C.E.S.
32	New Mexico	APPLICANTS WHO ARE GRADUATES FROM PROGRAMS OUTSIDE THE UNITED STATES AND CANADA Applicants for licensure whose applications are based on graduation from universities outside the United States and Canada shall provide the board with such documents and evidence to establish that their formal education is equivalent to a doctoral program in psychology granted by a United States university that is regionally accredited; such documents and evidence include: (a) an original diploma or other certificate of graduation which will be returned, and a photocopy of such a document which will be retained; (b) an official transcript or comparable document of all course work completed; (c) a certified translation of all documents submitted in a language other than English; (d) satisfactory evidence of supervised experience; and (e) a statement prepared by the applicant listing studies and research based on documents referenced in this section in a format as comparable as possible to a transcript issued by a United States university.
33	New York	The Department has a Comparative Education Unit that reviews the education of all applicants who are not graduates of programs that are registered by this Department as licensure-qualifying to determine if such persons have completed all the educational requirements in regulation. All documents must be submitted directly from a college or university or governmental jurisdiction.
34	North Carolina	For an applicant who holds a foreign degree, a report completed by a credentials evaluation service acceptable 21 NCAC 54 .1702(a)(3) and (d) is required. The report completed by the service that an applicant chooses must evaluation" of credentials, and must be submitted directly to the Board from the evaluation service. To be considered for licensure, the evaluation service must be a member of the National Association of Credential Evaluation Services , requires that the applicant bear the cost of the service.
35	North Dakota	We no longer accept foreign degrees/credentials - NDCC 43-32-20 requires a degree from an APA, CPA, or ASPPB/NR Designated Program.
36	Ohio	OAC 4732-9-01.2: Doctoral degrees in psychology or any other field from an educational institution outside

		the United States shall be evaluated for equivalence to a doctoral degree in psychology from a fully accredited educational institution in the United States. For any degree earned from an institution outside of the U.S.: (A) The educational institution must be included in one of the following: (1) "International Handbook of Universities," published for the "International Association of Universities," by Stockton Press, 345 Park Avenue South – 10th floor, New York NY 10010-1707; or (2) "Commonwealth Universities Yearbook," published for "The Association of Commonwealth Universities," by John Foster House, 36 Gordon Square, London, England WC1H 0PF; and (B) In addition, the academic transcript underlying the degree must be translated into English (as applicable) and evaluated by a member organization of the national association of credential evaluation service (NACES) . The degree must be judged by a NACES member organization to be equivalent to a doctoral degree in psychology or school psychology from a regionally accredited academic institution in the U.S. The applicant shall be responsible for all fees associated with said credential review and any required translation deemed necessary by the board to conduct a review of the degree. The board may waive this requirement for a credential evaluation for applicants with doctoral degrees from academic programs accredited by the accreditation panel of the Canadian psychological association. Candidates are directed to www.naces.org . (C) Prior to admission to examination, applicants judged to have a qualifying degree pursuant to this rule shall evidence compliance with the same training and experience requirements prescribed in paragraph (H) of rule 4732-9-01 of the Administrative Code, including at least two years of supervised experience of a type satisfactory to the board.
37	Oklahoma	No information
38	Oregon	Must have degree/university evaluated by a foreign degree evaluation service to be equivalent to a regionally :
39	Pennsylvania	Degree holders from a foreign college or university must have an evaluation completed by the National Register to determine whether the standards are equivalent to the ASPPB/National Register Designation Project Criteria.
40	Rhode Island	Please access links provided under #1, and #4. http://www.health.ri.gov/hsr/professions/psych.php#Members
41	South Carolina	Board refers all foreign degreed applicants to Educational Credentials Evaluators, Inc. for course-by-course evaluation.
42	South Dakota	Accept credentials from World Education Services .
43	Tennessee	No information
44	Texas	The Board requires that the foreign trained applicant have their credentials evaluated at the University of Texas to determine if their education is equivalent to a doctoral degree in psychology.
45	Utah	Must be equivalent to an accredited program and the burden to demonstrate equivalency shall be upon the applicant. The program must be evaluated by a credential evaluation service that is a member of the National Association of Credential Evaluation Services for the purpose of determining the education is substantially equivalent to the education required of applicants with degrees from institutions located in the U.S. or Canada.
46	Vermont	An applicant must have completed a psychologist-doctorate or a psychologist-master educational program equivalent to the standards of a professional psychology training program as defined in 26 V.S.A. § 3001(10). The Board will evaluate an applicant's academic credentials after the Board receives a report from a credentials evaluation service. Applicants should consult the Board's Web page or contact the Board for a current list of acceptable services. Applicants are responsible for the costs of this evaluation. Upon approval, an applicant may then be eligible for licensure under Rule 2.4. http://vtprofessionals.org/opr1/psychologists/
47	Virginia	Graduates of programs that are not within the United States or Canada must provide documentation from an acceptable credential evaluation service which provides information that allows the board to determine

47	Virginia	Graduates of programs that are not within the United States or Canada must provide documentation from an acceptable credential evaluation service which provides information that allows the board to determine if the program meets the requirements set forth in this chapter.
48.	Washington	The applications are reviewed on a case by case basis.
49.	West Virginia	The candidate would have prove that the foreign degree was equivalent to an acceptable American degree.
50.	Wisconsin	As per the Provision of PSY 2.12: Psy 2.13 Doctoral degrees in psychology outside the U.S. and Canada. In addition to the experience requirements set forth in s. Psy 2.09 (3), all applicants with doctoral degrees in psychology from universities in the United States and Canada may be required to submit documentation of additional supervised experience within the United States. Applicants for licensure on the basis of degrees from colleges and universities from outside the United States shall also pass the examination for professional practice of psychology and may also be required to pass an English proficiency examination approved by the board.
51	Wyoming	The Board may issue a temporary license to an applicant who is licensed or certified by a board of psychology of another United States state or territory, or of a foreign country or province whose standards are equal to or exceed the requirements for licensure as a psychologist in this state. A temporary licensee may offer services as a psychologist in this state for not more than thirty (30) working days in any year without holding a permanent license issued under this act. The temporary licensee shall report the nature and extent of the

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SB 2141
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PROPOSED AMENDMENTS TO SENATE BILL NO. 2141

Page 3, line 18, remove the overstrike over "licensed"

EXPLANATION: This section is the definition of registered applied behavior analysts, who are the "grandfathered" ABA providers in ND (not providers who are Board Certified Behavioral Analysts). Overstriking "licensed" means a grandfathered ABA provider can be supervised by a grandfathered ABA provider. Removing the overstrike means that a grandfathered ABA provider must continue to be supervised by a licensed psychologist or a licensed applied behavior analyst.

Page 4, line 2, after "analysis." Insert "At least one member must be a board certified behavioral analyst."

EXPLANATION: This section of the bill governs the make-up of the board. This amendment would require that one member of the board be a Board Certified Behavioral Analyst, which is entirely appropriate because it is one of the provider types the board regulates.

Page 7, line 28, after "licensed" insert ", certified,"

EXPLANATION: This part of the bill deals with reciprocity. Only 19 states currently require licensure for ABA providers (including ND). For the 31 states that do not require licensure, those states allow ABA providers to practice if they are Board Certified Behavioral Analysts, which is the gold standard for ABA providers. This amendment allows for reciprocity to attain ND licensure if an out-of-state ABA provider has achieved Board Certification in another state that doesn't require licensure (but is otherwise board certified).

Page 8, lines 27-28, remove the overstrike over "~~, if the applicant is licensed or registered and is in good standing in another jurisdiction or is~~" and after "licensed" insert ", certified,"

EXPLANATION: This part of the bill – subsection 4 – deals with provisional licensure. This amendment is necessary to be sure that a provisional license can be granted to Board Certified Behavioral Analyst who is certified and practices in another state that doesn't require licensure.

Page 9, line 6, after "licensed" insert ", certified,"

EXPLANATION: This section of the bill – subsection 5 – deals with limited practice, which is a situation in which a provider seeks approval to practice for a short amount of time. The board is currently rejecting requests for limited practice licenses if the ABA provider is a board certified behavioral analyst in another state that doesn't itself require licensing of ABA providers. This is nonsensical as the board allows for limited practice by

lesser-trained grandfathered ABA providers licensed in another state, but the board does not allow for limited practice by greater-trained board certified behavioral analysts. This amendment needs to be adopted to allow limited practice for Board Certified Behavioral Analysts who come from states that do not currently required licensure (but have more training than grandfathered ABA providers).

Page 9, line 10, after “year” insert “; provided that the board shall extend the thirty-day timeframe if it has not yet made a final determination on the application for full licensure or registration.”

EXPLANATION: Under current law, a limited practice license can only be granted for up to 30 days. This is not enough time in many circumstances because the board’s review often takes longer. The onus should be on the board to expeditiously process full licensure applications and should allow for limited practice licenses for more than 30 days if the board’s review take more than 30 days.

Page 10, line 27, after “rule” insert “; provided that the rule may not require supervision of board certified behavioral analysts by lesser-trained professionals, but shall allow supervision by board certified behavioral analysts”

EXPLANATION: Under current law and administrative rules passed by the board, lesser-trained grandfathered ABA providers – known as registered applied behavior analysts – must supervise greater-trained Board Certified Behavioral Analysts. This does not make sense as a matter of public policy. Professionals with equivalent or greater training should be doing the supervision. This amendment seeks to make that clear as the board adopts rules related to supervision.

Page 15, line 8, after “or” insert “board certified”

EXPLANATION: This part of the bill deals with exemptions to licensure, specifically, with the situation in which a student is receiving supervision during his or her education. Under current law, a student who is pursuing a masters, which is a pre-requisite for the student to become a Board Certified Behavioral Analyst, would plausibly have to be supervised by a lesser trained ABA provider. This amendment would make clear that a student pursuing a masters should be supervised by someone with adequate training – a Board Certified Behavioral Analyst or an individual with greater training.

Page 15, line 16, after “licensed” insert “, board certified,”

EXPLANATION: This part of the bill deals with exemptions to the licensing law, specifically, with lecturer at educational institutions or organizations. This should be amended for consistency in the statute.

Renumber Accordingly

North Dakota Applied Behavior Analyst Licensing

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Title	Education Requirement	Examination Requirements	Supervision Requirements	Scope of Practice	BACB Equivalent	Grandfathered Staff?
ND Licensed psychologist	Doctoral Degree, Psychology	Active license from NDSBPE	None	Can diagnose ASD conditions. Can design, supervise, evaluate, and modify treatment programs to change behavior in ASD.	N/A	N/A
ND Licensed ABA	Masters Degree, Psychology, Special Education, or specific additional coursework	1) Requires BCBA from BACB 2) Oral Exam by the NDSBPE	None	Cannot diagnose. Can design, supervise, evaluate, and modify treatment programs to change behavior in ASD. Can code and file a claim independently.	BCBA	Yes, without BCBA, closed 2013 and beyond
ND Registered ABA	Bachelors Degree with specific requirements	1) BCaBA from BACB OR 2) Score of ≥ 450 points or higher on national written exam for Psychology (EPPP) AND 3) Passing oral exam by the NDSBPE	Supervised by 1) Licensed Psychologist OR 2) Licensed ABA Supervisors must be on file with NDSBPE	Cannot diagnose. Can design, supervise, evaluate, and modify treatment programs to change behavior in ASD under required supervisor. Cannot code and file a claim independently per Century Code.	BCaBA	No
Skills Trainer	Paraprofessional staff-employed, trained in general techniques to a basic competence, and trained in specific techniques of ABA treatments and monitored/adjusted by supervising ABA therapist	Not regulated by NDSBPE	Supervision by 1) Licensed ABA OR 2) Registered ABA	Direct Implementation of ABA Therapy. Does not design intervention or assessment plans. Cannot code and file a claim independently per Century Code.	RBT	No

Behavior Analyst Certification Board

Title		Education Requirement	Examination Requirements	Supervision Requirements	Scope of Practice
BCBA-D	Board Certified Behavior Analyst- Doctoral	Doctoral Training in BA	Pass BCBA Exam offered by BACB	None	Cannot diagnose. Independent practitioner who provides therapy and supervises work of BCaBA's, RBT's
BCBA	Board Certified Behavior Analyst	Masters Degree	Pass BCBA Exam offered by BACB	None	Cannot diagnose. Independent practitioner who provides therapy and supervises work of BCaBA's, RBT's
BCaBA	Board Certified Assistant Behavior Analyst	Bachelors Degree	Pass BCaBA Exam offered by BACB	Supervised by BCBA/BCBA-D	Cannot diagnose. Supervised practitioner who may supervise RBT's in implementing behavior analytic interventions
RBT	Registered Behavior Technician	Paraprofessional	BACB Certification	Supervised by BCBA/BCaBA	Does not design intervention or assessment plans. Primarily responsible for direct implementation of ABA Services. BCBA supervising RBT is responsible for work performed by RBT.

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Terms

BACB	Behavior Analyst Certification Board
BCBA	Board Certified Behavior Analyst
BCBA-D	Board Certified Behavior Analyst- Doctoral
BCaBA	Board Certified Assistant Behavior Analyst
RBT	Registered Behavior Technician
NDSBPE	ND State Board of Psychologist Examiners
DSP	Direct Support Professional (Paraprofessional)
ASD	Autism Spectrum Disorders

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PREPARED FOR THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

3/27/17

DRAFT AMENDMENTS TO SENATE BILL 2141

Page 7, line 28, after "licensed" insert ". certified."

DRAFT AMENDMENTS TO SENATE BILL 2141

Page 10, line 27, after the period, insert "The board's rule must allow supervision of board certified behavioral analysts by professionals with equivalent or greater training."