

**ARTICLE 112-05
BEHAVIOR ANALYST LICENSURE**

Chapter
112-05-01 Behavior Analysts

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BEHAVIOR ANALYSTS**

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112-05-01-01. Definitions.

Unless specifically stated otherwise, all definitions found in North Dakota Century Code chapter 43-64 are applicable to this title. In this title, unless the context or subject matter otherwise requires:

1. "Certifying entity" means behavior analyst certification board or a certifying entity accredited by the national commission for certifying entities or the American national standards institute.
2. "Licensed assistant behavior analyst" means an individual licensed under North Dakota Century Code chapter 43-64 as a licensed assistant behavior analyst and is supervised by a licensed behavior analyst.
3. "Licensed behavior analyst" means an individual licensed under North Dakota Century Code chapter 43-64 as a licensed behavior analyst.
4. "National board" means behavior analyst certification board or its successor.
5. "National board examinations" means the board-certified behavior analyst or board-certified assistant behavior analyst examination for board certification or its successor.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-64-04

112-05-01-02. Application for licensure - Requirements.

1. The board may grant licensure as a licensed behavior analyst to an applicant in the practice of applied behavior analysis, who meets all of the following requirements:
 - a. The applicant has a doctorate or master's degree from a program accredited or verified by the association for behavior analysis international or approved by the behavior analyst certification board.

- b. The applicant has passed the board-certified behavior analyst examination offered by the behavior analyst certification board.
 - c. The applicant is certified by the behavior analyst certification board.
 - d. The applicant has passed the North Dakota professional responsibility examination once developed and approved by the board.
2. The board may grant licensure as a licensed assistant behavior analyst to an applicant in the practice of applied behavior analysis, who meets all of the following requirements:
- a. The applicant has a bachelor's degree from a school or college that meets one of the following requirements:
 - (1) A bachelor's degree in a program accredited or verified by the association for behavior analysis international.
 - (2) A bachelor's degree in a program approved by the behavior analyst certification board.
 - b. The applicant has passed the board-certified assistant behavior analyst examination offered by the behavior analyst certification board.
 - c. The applicant has passed the North Dakota professional responsibility examination once developed and approved by the board.
 - d. The applicant provides proof acceptable to the board that the applicant will be supervised by a licensed behavior analyst in the state who is currently certified and in good standing with the behavior analyst certification board, and that the supervision complies with current behavior analyst certification board supervision requirements.
3. Notwithstanding the education, experience, and examination requirements for licensure under this section, if on December 31, 2019, an applicant held a valid license or registration issued by the state board of psychologist examiners under North Dakota Century Code chapter 43-32, the applicant is deemed to have met the education, experience, and examination requirements for licensure.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-64-04

112-05-01-03. Application for licensure - How made.

An application must be made on the official form issued by the board. The form may be secured from the board's official website. Applicants who meet the requirements for licensure are considered when all of the following has been received:

- 1. A signed and dated completed official application form;
- 2. Proof of current certification in good standing issued directly from the behavior analyst certification board;
- 3. The application fee; and
- 4. The initial license fee.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-64-04

112-05-01-04. License by endorsement.

An application for license by endorsement will be granted by the board if the following conditions are met:

1. The applicant has graduated from an accredited program in which the individual is applying in this state.
2. The applicant has completed the behavior analyst certification board national examination required by the board related to competence in applied behavior analysis.
3. The applicant holds a verified current valid license in good standing to practice as a behavior analyst professional in another state or jurisdiction.
4. The current board certification requirements of the other state or jurisdiction are substantially similar as the current licensure requirements of this state. Official verification of board certification requirements must be received by the board from the other state or jurisdiction.
5. The applicant has filed with the board an official application for licensure by endorsement, a copy of the diploma from an approved school, a copy of the current valid license, and the required application fee.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-64-03

112-05-01-05. License issued - Approved designation.

When it has been determined by the board that any applicant is at least eighteen years of age, has met the requirements outlined in chapter 112-04-01, and is an individual whose past conduct aligns with the code of ethics adopted by the board, the board shall issue to such applicant a license to practice behavior analysis. The licensee may use the designation licensed behavior analyst or licensed assistant behavior analyst.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-06, 43-64-02, 43-64-03

112-05-01-06. Student supervision.

1. Students intending to seek licensure must be supervised by a qualified supervisor.
 - a. Qualified supervisors must be one of the following:
 - (1) A licensed behavior analyst in good standing with the board;
 - (2) A licensed or registered psychologist certified by the American board of professional psychology in behavioral and cognitive psychology who was tested in applied behavior analysis; or
 - (3) An authorized, verified course sequence instructor who is providing supervision in a practicum or intensive practicum; and
 - b. The supervisor must have met the requirements for providing supervision before providing supervision to anyone seeking experience hours and must be in good standing with the board.

2. The supervisor and student shall develop and sign a written contract at the outset of the supervisory relationship outlining the responsibilities of each party and description of the activities. Each contract must indicate that both parties shall adhere to the code of ethics adopted by the board.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-06, 43-64-03, 43-64-04

112-05-01-07. License displayed.

1. If a licensed behavior analyst or licensed assistant behavior analyst moves to a new office location, the board must be notified of the change in address within thirty days.
2. A current certificate issued by the board must at all times be displayed in each office location of the licensed behavior analyst or licensed assistant behavior analyst. In case of loss or destruction, a duplicate certificate may be issued by the board upon receipt of satisfactory evidence of the loss or destruction.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-64-02

112-05-01-08. License renewal and fees.

1. Every licensed behavior analyst or licensed assistant behavior analyst who has been licensed by the board shall renew the license by remitting a renewal fee on or before November fifteenth of each odd-numbered year and completing the renewal application provided by the board. For applicants who receive an initial license after July first in an odd-numbered year, the license will be deemed to be automatically renewed on November fifteenth for an additional two years without payment of an additional renewal fee.
2. The applicant for renewal shall certify on the renewal application that the continuing education requirements have been or will be met by November fifteenth. The applicant shall keep records of completed continuing education for at least two years. The board shall conduct random compliance audits of licensees. Failure to complete continuing education is considered unprofessional conduct.
3. A license renewal application received on or after November sixteenth of an odd-numbered year is a late renewal and requires a new completed application form, the renewal fee, plus a late fee set by the board. Proof of appropriate continuing education hours must be presented. A license that has not been renewed by eleven fifty-nine p.m. on November fifteenth in an odd-numbered year is a lapsed license.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-07, 43-59-03

112-05-01-09. Lapsed licenses - Reactivation.

1. Once a license has lapsed, the individual who held the lapsed license may not practice behavior analysis or use a title reserved under state law for individuals who are licensed by the board until a new license is issued. An individual whose license has lapsed but who continues to practice applied behavior analysis or use a restricted title violates state law and this chapter. Such a violation is grounds for denying an application by the former licensee for renewal of the lapsed license or for a new license.

2. An application for reactivation of a lapsed license will be considered if:
 - a. The applicant provides a letter from all states in which that licensee has practiced since their North Dakota license lapsed indicating the applicant is in good standing to practice as a behavior analyst or licensed assistant behavior analyst in that other state or states.
 - b. The applicant shall appear before the board if the applicant cannot show proof of active practice in some state or jurisdiction for at least six months of the last two years.
 - c. The applicant must take and pass the behavior analyst certification board national examination related to competence in applied behavior analysis if it has been two or more years since the behavior analyst or licensed assistant behavior analyst was in active practice in any state. The board may select to have any holder of a lapsed license applying for reactivation take the behavior analyst certification board national examination related to competence in applied behavior analysis or any other evaluation at its discretion.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-57-07

112-05-01-10. Continuing education requirements.

1. All active licensees shall complete a minimum of thirty-two hours of approved continuing education credits biennially, including four credits in ethics. Only hours earned at board-accepted continuing education programs will be allowed. One hour of credit is earned for every fifty minutes of actual class time.
2. An extension of time or other waiver to complete the hours required in subsection 1 must be granted upon written application if the licensee failed to meet the requirements due to illness, military service, medical charitable activities, religious missionary activities, or other extenuating circumstances.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-57-07

112-05-01-11. Board approval of continuing education.

1. In order to receive board approval, a continuing education program must be accepted by the behavior analyst certification board.
2. It is the responsibility of the licensee to verify the appropriate credit designation with the source of the program, not with the board. All licensees must verify eligibility for continuing credit and the appropriate credit designation before taking any particular course.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-57-07, 43-59-03

112-05-01-12. Board audit.

Each biennium the board shall audit randomly selected licensed behavior analysts and licensed assistant behavior analysts to monitor compliance with the continuing education requirements. Any licensed behavior analyst or licensed assistant behavior analyst so audited will be required to furnish documentation of compliance, including the name of the continuing education provider, name of the program, hours of continuing education completed, dates of attendance, and verification of attendance.

Any licensed behavior analyst or licensed assistant behavior analyst who fails to provide verification of compliance with the continuing education requirements will be subject to revocation of licensure. In order to facilitate the board's audits, every licensed behavior analyst or licensed assistant behavior analyst is required to maintain a record of all continuing education activities in which the licensed behavior analyst has participated. Every licensed behavior analyst or licensed assistant behavior analyst must maintain those records for a period of at least two years following the time when those continuing education activities were reported to the board.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-07, 43-57-08

112-05-01-13. Fees.

The board charges the following nonrefundable fees:

1. **Application.** The fee for filing an application for an initial license is fifty dollars.
2. **Initial license.** The fee for an initial license is five hundred dollars. The licensing period is biennial, ending on November fifteenth of every odd year. The initial license fee shall be prorated quarterly based upon the time period remaining in the two-year cycle at application.
3. **Temporary license.** The temporary license fee shall be one hundred dollars. The cost of the temporary license fee will be applied toward the initial license fee upon receipt of application for the initial license.
4. **Renewal.** Licenses renew on November fifteenth of every odd year. The renewal fee is one hundred dollars.
5. **Late filing.** A late filing fee will be charged on renewal applications not received by November fifteenth of every odd year. The late filing fee is seventy-five dollars.
6. **Duplicate license.** The duplicate license fee for a license is twenty-five dollars.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03, 43-57-07

112-05-01-14. Exemptions from licensure.

The following individuals are exempted from the licensure requirements of this chapter:

1. College or university students or postdoctoral fellows whose applied behavior analysis activities are part of a defined program of study, course, practicum, internship, or fellowship and are directly supervised by a behavior analyst licensed by the board. Such individuals may not represent themselves as professional behavior analysts and must use titles that clearly indicate their trainee status, such as "student", "intern", or "trainee". The student or intern status and the supervisor must be clearly stated.
2. Unlicensed individuals pursuing experience in applied behavior analysis consistent with the experience requirements of the certifying entity, provided such experience is supervised in accordance with the requirements of the certifying entity.
3. Individuals licensed to practice psychology pursuant to North Dakota Century Code chapter 43-32 and those who deliver psychological services under their supervision, provided that:
 - a. Applied behavior analysis is in the scope of practice section of the psychology licensure law;

- b. The applied behavior analysis services provided are within the boundaries of the licensed psychologist's education, training, and competence; and
 - c. The licensed psychologist does not represent themselves as a licensed behavior analyst unless also licensed under North Dakota Century Code chapter 43-64.
4. Individuals certified or licensed to practice other professions in this state and those who deliver services under their supervision, provided that:
 - a. Applied behavior analysis is in the scope of practice section of the psychologist's licensure law;
 - b. The applied behavior analysis services provided are within the boundaries of the licensed professional's education, training, and competence; and
 - c. The licensed professional does not represent that licensed professional is a licensed behavior analyst or licensed assistant behavior analyst unless also licensed under North Dakota Century Code chapter 43-64.
5. A lecturer or professor, from any accredited school or college, when lecturing to institutions or organizations. However, the lecturer or professor may not engage in the practice of applied behavior analysis or represent that the lecturer or professor is a licensed behavior analyst or licensed assistant behavior analyst unless the lecturer is licensed under North Dakota Century Code chapter 43-64. "Lecturing" does not include clinic practice, training, or research.
6. An individual providing applied behavior analysis services to an individual in a public school setting. Such individuals may not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless licensed under North Dakota Century Code chapter 43-64.
7. Behavior technicians who deliver applied behavior analysis services under the extended authority and direction of a licensed behavior analyst or a licensed assistant behavior analyst. Such individuals may not represent themselves as professional behavior analysts, and must use titles that indicate their nonprofessional status, such as "ABA technician", "behavior technician", "registered behavior technician", or "tutor".
8. An individual or caregiver who is implementing applied behavior analysis services to an immediate family member or as a paid or volunteer caregiver implementing procedures established by the family, the individual served, or a licensed behavior analyst or a licensed assistant behavior analyst in any setting, if the individual or caregiver does not represent themselves as a "licensed behavior analyst" or "licensed assistant behavior analyst".
9. Professionals who provide general applied behavior analysis services to organizations, so long as those services are for the benefit of the organizations and do not involve direct services to individuals. Such professionals may use the title "behavior analyst" but may not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless licensed under North Dakota Century Code chapter 43-64.

History: Effective January 1, 2021.

General Authority: NDCC 43-57-03

Law Implemented: NDCC 43-57-03