

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

1439

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1439

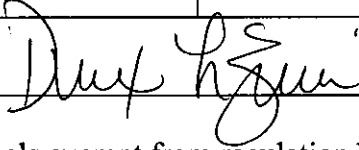
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1439

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/04/05

Tape Number	Side A	Side B	Meter #
1	x		12.5-54.9
Committee Clerk Signature 			

Minutes: HB Relating to individuals exempt from regulation by the state board of psychologist examiners.

14 members present, 0 absent.

Rep. Dwight R. Wrangham-District 8-For-Testimony Attached

Chairman Haas: Thank you Rep. Wrangham.

Kimberly McDowall-Long-for-Testimony Attached

Rep. Froseth: Licensing of organizations and professions in North Dakota is among industry business and labor committee, a lot of licensing procedures goes through that committee and over my tenure in the legislature, we have had all kinds of reviewal of licensed process in every type of profession and organization. licenses does provide some benefits to a profession in various ways. One is that you know how many professionals are working in this state and it is a matter of keeping track of there work ethics and work progress and so forth and it is an accountability

measure. What are your continuing education requirements? Puts in a penalty, if a person is not abiding by the provisions of the licensing statutes.

Kimberly: Benefits to the state by licensing Industrial/Organizational Psychologists. Under the current state laws it is impossible for Industrial/organizational psychologist, ever to be licensed in this state. Unless, if you could possibly find another IO psychologist in another state and then they are very rare and take you on as intern and supervise your for development for 4000 hours over the course of two years. The American Psychological Association, the governing body in the United States and the Society of Industrial Organizational Psychologists, a division of the American psychological association agree that there is a serious problem requiring internship and residency of IO Psychologists, it has realized that there is a problem for this profession.

Continuing education requirements, there are no established continuing education requirements for IO Psychologists who are licensed.

Rep. Froseth: I guess most professions that are licensed they are found to be in violation of professional ethics or some state provisions, they is usually some type of penalty.

Rep. Conrad: How long has the American psychological association acknowledged or recognized Industrial Organizational Psychologists, do you know?

Kimberly: It has been one of the longest separate divisions in the American psychological association. The model act that I referred to, that allows for exemption by the APA, 1987. This is not something that happened yesterday. The problem is that there is such a small number of us. I have only meant one other person in this state that is a IO psychologist.

Rep. Conrad: I happen to have a son of a friend of mine has this degree, it has been about 15 years ago, he works in Missouri. I have often wondered why we didn't have IO psychologists

around here. I have learned a lot about it by talking to him. What you are doing is exempting yourself from the use of term psychologist, unless you would say Industrial Organizational Psychologist.

Kimberly- I want to be fair to the opposition. The only reason we don't have a large number of IO psychologists in this state, it is not merely the licenser department, it is a huge hurdle. It is also the market factor.

Rep. Conrad: You are using the approach by exempting yourself from psychologists, this is the same approach that is used in Illinois and in Colorado and this is the approach that is recommended by the American Psychological Association.

Kimberly: What I am asking for is the exemption from the requirement to obtain licenser in the State of North Dakota as a IO psychologists. Given the North Dakota century codes current state, it will not be possible to ever obtain a licenser as IO psychologist in the state of North Dakota.

Rep. Conrad: You couldn't use the term psychologist, unless the exemption is given.

Kimberly: I am not even asking to be able to call myself a psychologist, after the exemption is granted. What I am asking for is the opportunity to let members of the public know that I am hoping to be Industrial Organizational psychologist.

Rep. Sitte: I heard IO psychologists, the general public does not yet know how to distinguish IO psychologists from other psychologists and that is the real issue hear. We want the general public to be able to avail themselves of your services and we don't want you to have unnecessary hoops and yet we do need to have some sort of regulation over IO psychologists. I am wondering how difficult it would be for you and maybe you are the only one that could do it and work with the American psychologists association and come up with a licenser that would fit North Dakota and

would fit you and not requiring 4000 dollars of an internship out of state? We are real supportive of people.

Kimberly: Protection for the public are written in HB 1439.

Rep. Klemin: Can you do this same kind of work without calling yourself and Industrial Organizational psychologist.

Kimberly: I hold a master degree in business already, I can offer all these services that I hope to offer as a doctor in the next six months or so, a doctor of IO psychology in the state of North Dakota without fear of being slapped down for fear of practicing psychology without a license. I am already self-employed as an organizational consultant. I went on to earn my PHD.

Rep. Klemin: If you called yourself Organizational Consultant with doctorate degree in Industrial psychology would you be violating North Dakota law?

Kimberly: No I would not, is that the kind of statement that you want young professionals to work in, so that we have to find all the loop holes to run our businesses.

Rep. Klemin: Would you have any objection to licensing?

Kimberly: Absolutely not.

Rep. Galvin: I am trying to understand the difference in training? If you have a doctorate in Clinical psychology could you branch out into being and Industrial physiologist or an Organizational psychologist, would they have that training?

Kimberly: Once you obtain a license in any state as a psychologist, you are not licensed as any particular psychologist, you are then free to practice in other areas.

Rep. Potter: With a doctoral degree in this organizational psychology would most of the people in that field be teaching at the college level or actually going out and practicing your work in businesses.

Kimberly: Where do you want to make the investment. I wouldn't say it is one way or the other, it is really how you apply your training.

James Long-for-Testimony attached-

Rep. Klemin: You can do the exact same thing Kimberly is doing, but she can also do the exact same work as long as she does not call herself a clinical psychologist, is that correct?

James: That is correct.

Dr. Alan Fehr-Licensed psychologist in North Dakota-Member of the North Dakota State Board of Psychologist Examiners-Opposition-Testimony Attached.

Rep. Klemin: A person who has a degree in IO psychology could do the exact same kind of consulting work, if she did not call herself a psychologist, is that correct?

Allan: Our purpose and our guidance is the licenser law and so we are concerned about those people operating and calling themselves psychologists or working according to the definition of psychology.

Rep. Kelvin: What is in the name, as long as you don't call yourself a psychologist you can do the exact same thing that you would do if you could call yourself an IOU psychologist and as long as you don't call yourself a psychologist and you are able to do this work, you don't need to be licensed and you don't have all of this over sight of continuing education requirement or anything, so how are we benefiting the public by allowing somebody to do this kind of work

without being licensed, without have the oversight, without having a board to complain to, without have continuing education, just because of the name psychologist, I don't get it.

Allan: There are certainly some truth that there are people who provide service to the public that overlap with what a licensed psychologist may do and they don't call themselves psychologists. Our law is a title law, there is a definition in the law that defines the practice of psychology and as long individuals are not calling themselves psychologists and are not working and operating in a way that would define or practice law they do not fall under our jurisdiction.

Chairman Haas: So what you are telling us Dr. Fehr, is that your board, based on the existing statute does not recognize any legitimate form of psychology, except those psychologists that you can license based on your criteria and that is essentially the clinical psychologist, is that what you are saying?

Alan: Our licenser law is for psychologists, not specific to clinical or counseling psychologists.

Chairman Haas: So if we change the law and we say that yes, we recognize that IO psychologist is a legitimate form of psychology, then would you agree that you would embrace that?

Alan: Under the current law, understand that this an exemption and there are some other exemptions in the law and this exemption is a little different then some of the others.

Chairman Haas: The alternative to the exemption then, is for us to change the statute and by statute if we have to and recognize that as a legitimate psychological profession, put them under the jurisdiction of your board, with a different set of criteria for licenser, because they are not clinical or counseling psychologists, if the APA recognizes IO psychologists as a legitimate form

of psychology, then why couldn't we not structure the laws to have them embrace by our current board?

Alan: I would be happy to give you my opinion on that, I couldn't tell you that I am representing the board because as a board we discuss it in terms of the current bill. I believe our primary argument would be lifted if there was a change to the law and the individuals still fell within the law and they still have to answer a regulating body, whether it us or some other regulating body, but they have to answer to somebody.

Chairman Haas: We would prefer not to create another board, obviously and it seems to me that there could be an easy way to embrace a new form of psychology and emerging profession and have it come under the jurisdiction of the same board. Would you not agree with that, by establishing right kind of criteria and licensing requirements for a new form of psychology, namely Industrial Organizational Psychology?

Alan: We are not in opposition to individual as license as organizational industrial psychologists to seek licensure. That is our point, if they want to be psychologists, we would want them to be licensed as psychologists.

Chairman Haas: With a different set of criteria required for licensure, then a clinical or counseling psychologist.

Alan: We are not in opposition to that.

Bonnie Larson Staiger-Neutral-Testimony Attached

Chairman Haas: Are you telling us that you do recognize IO psychology as a legitimate form of psychology and that we could structure in such a way that it could come under the jurisdiction of the current board.

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Bonnie: Absolutely, we would be happy and eager to help that happen.

Chairman Haas: Thank you very much. Any more questions on HBO 1439.

Rep. Sitte: I move a Do Pass As Amended

Rep. Horter: I second the motion.

VOTE YES 14 NO 0 ABSENT 0 DO PASS AS AMENDED

REP: HORTER WILL CARRY THE BILL

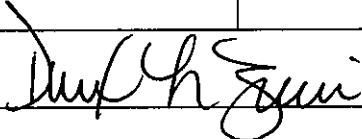
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1439

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/11/05

Tape Number	Side A	Side B	Meter #
1	x		46.4-53.2
Committee Clerk Signature 			

Minutes: HB 1439 Relating to individuals exempt from regulation by the state board of psychologist examiners.

Discussion and vote.

Chairman Haas: Call the meeting of Government and Veterans Affairs to order. Have the clerk take the roll.

14 members present, 0 absent.

Chairman Haas: Rep. Horter would you please present your amendments. As you recall HB 1439 had to do with Industrial psychologists, Organizational psychologists, it would be a lot better to bring the Industrial psychologists under the state board, rather than creating an exemption. The amendments do exactly that, we have a hog house. Are there any questions on the amendments? The committee did a very good job to bring the Organizational physiologists under the board. Rep. Horter do you move the amendments.

Rep. Horter: Yes, Mr. Chairman.

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Chairman Haas: Rep. Horter moved to amend the bill, is there a second? Seconded by Rep.

Sitte. Discussion. We will do a voice vote on the amendment, all in favor of the amendment signify by saying I, oppose say no, motion carried. We now have the amended bill before us, the chair would entertain a motion.

Rep. Sitte: I move a DO PASS as AMENDED on HB 1439.

Chairman Haas: Rep. Sitte moves a DO PASS as AMENDED, is there a second, Rep.

Horter seconds the motion. Any further discussion, if not we will ask the clerk to take the roll.

VOTE: YES 14 NO 0 ABSENT 0 DO PASS AS AMENDED

REP. HORTER WILL CARRY THE BILL

**House Amendments to HB 1439 - Government and Veterans Affairs Committee
02/11/2005**

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-32-01. Definitions.

1. "Board" means the North Dakota state board of psychologist examiners.
2. "Industrial-organizational psychologist" means an individual who is licensed under this chapter to engage in the practice of industrial-organizational psychology.
3. "Industrial-organizational psychology" means the provision of psychological research services or consultation services to a group or an organization. The term does not include the delivery or supervision of services to individuals who are themselves, rather than the group or organization, the intended beneficiaries of the services, regardless of the source or extent of payment for services rendered.
4. "Licensee" means an industrial-organizational psychologist or a psychologist.
5. "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The term includes psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychotherapy, and other therapeutic techniques based on psychological principles; diagnosis and treatment of mental and emotional disorder or disability, compulsive disorders, disorders of habit or conduct as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. The term includes providing psychological services to individuals, families, groups, and the public regardless of whether payment is received for services rendered.
- 3- 6. "Psychologist" means an individual who is licensed under this chapter in the practice of psychology.

- 4- 7. "Psychology resident" means an individual who has received from an ~~accredited~~ accredited a school or college a doctorate degree in a program of study substantially psychological in nature, and who is involved in supervised psychological employment.
- 6- 8. "School or college" means any university or other institution of higher learning ~~that which~~ is accredited by a regional accrediting association, offering a full-time graduate course of study in industrial-organizational psychology or psychology.

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

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

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

43-32-07. Meetings of board - Seal of board. The board shall hold at least one regular meeting each year. Additional meetings may be held upon call of the president or at the written request of the governor or of any two members of the board. The meetings must be held at such places as the board may designate. The board ~~shall~~ must have a seal.

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

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

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

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

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

43-32-08.2. Continuing education requirements - Renewal. Absent a showing of good cause, the board may not renew a license issued under this chapter without proof the continuing education requirements ~~established by rule of the board~~ under section 43-32-08.1 have been met. ~~A person~~ An individual whose license is not

renewed because of failure to meet the continuing education requirements must be reinstated and the license renewed if, within one year from the date of nonrenewal, the ~~person~~ individual demonstrates to the secretary of the board the continuing education requirements have been satisfied and, pays the renewal fee, and pays a late fee to be determined by rule of the board.

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

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

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

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

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

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

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

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

1. Except as otherwise provided by under this chapter, ~~no individual~~ a person may not engage in the practice of psychology or represent that ~~individual~~ person to be a psychologist in this state ~~after August 1, 1993,~~ unless that person is an individual who has obtained from the board a license to do so who is licensed as a psychologist under this chapter. Except as otherwise provided by this chapter, a person may not engage in the practice of industrial-organizational psychology or represent that person to be an industrial-organizational psychologist in this state unless that person is an individual who is licensed as a psychologist or an industrial-organizational psychologist under this chapter.
2. A psychologist may use the title "psychologist" or similar title in conjunction with the practice of psychology. An industrial-organizational psychologist may use the title "industrial psychologist", "organizational psychologist",

"industrial-organizational psychologist", "IO psychologist", or similar title in conjunction with the practice of industrial-organizational psychology. An industrial-organizational psychologist may not use the title "psychologist" or similar title representing that the individual is licensed as a psychologist.

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

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

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

43-32-20. Licensing - Written and oral examination - Qualifications of applicants. The board shall issue a license to each applicant who files an application upon a form and in a manner the board prescribes, submits the required fee, and demonstrates to the board that the applicant: meets the requirements of subsection 1 or 2.

1. An applicant for licensure as a psychologist shall demonstrate the applicant:
 - a. Will adhere to the American psychological association ethical principles of psychologists and code of conduct, 1992, or revised editions if adopted by the board by rule.
 2. b. Has received from an accredited a school or college as defined by this chapter a doctorate degree in a program of studies substantially psychological in nature.
 3. c. Has passed the examinations, written or, oral, or both, as the board deems determines necessary.
 4. d. Has completed at least two full years of supervised professional experience, one year of which must be an internship program, and one year of which must be postdoctoral. Both years of experience must comply with the board's rules.
2. An applicant for licensure as an industrial-organizational psychologist shall demonstrate the applicant:
 - a. Will adhere to the American psychological association ethical principles of psychologists and code of conduct, 1992, or revised editions if adopted by the board by rule.
 - b. Has received from a school or college a doctorate degree in a program of studies substantially psychological in nature.
 - c. Has passed the examinations, written, oral, or both, as the board determines necessary.
 - d. Has completed the professional experience requirements established by the board. The requirements may not exceed the professional experience requirements for psychologists. If the professional

experience requirements include a supervised experience requirement:

- (1) The board must allow an applicant to submit to the board a personalized plan for supervised experience which may include distance-supervision by a qualified industrial-organizational psychologist.
- (2) The board may adopt rules to establish who is qualified to perform supervision, supervision requirements, and reporting.

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

43-32-20.1. Postdoctoral supervised psychological employment.

- ~~1-~~ This section applies to postdoctoral supervised psychological employment. Supervision may only be performed by a ~~licensed~~ psychologist with a competency in supervision in professional psychology in the area of practice being supervised.
- ~~2-~~ Supervision of an applicant for psychologist licensure ~~as a licensed psychologist~~ must include at least two hours of regularly scheduled direct supervision a week for full-time employment, one hour of which must be with the supervisor on a one-to-one basis. The remaining hour may be with other mental health professionals designated by the supervisor. The board may approve an exception to the weekly supervision requirement for a week ~~when~~ during which the supervisor was ill or otherwise unable to provide supervision. The board may prorate the two hours per week of supervision for ~~persons~~ individuals preparing for licensure on a part-time basis.
- ~~3-~~ The board may adopt rules regarding postdoctoral psychology supervision requirements and reporting.

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

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

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

43-32-25. Retention of examination records. The board shall keep the written examination ~~papers and score report~~, an accurate recording of the questions and answers relating to the oral examinations, and the grade assigned to each answer thereof as a part of ~~its~~ the board's records for at least two years ~~subsequent to~~ following the date of the examination. In addition, the board shall keep a permanent record of all written examination score reports.

SECTION 16. AMENDMENT. Section 43-32-26 of the North Dakota Century Code is amended and reenacted as follows:

43-32-26. Issuance and display of license. The board is the sole agency empowered to examine competence in the practice of psychology. ~~Such A~~ license certificate issued by the board must show the full name of the licensee, have a serial number ~~and~~, be signed by the president of the board, ~~and be~~ attested by the secretary under the board's adopted seal. The license issued by the board under ~~the provisions~~ of this chapter must be prominently displayed at the principal place of business ~~where~~ at which the psychologist licensee practices.

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

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

1. The board, after notice ~~and~~, hearing, ~~and by~~ an affirmative vote of at least a majority of board members, may withhold, deny, revoke, or suspend any ~~psychologist~~ license issued or applied for under this chapter, ~~or and may~~ otherwise discipline a ~~licensed psychologist, licensee or an applicant~~ upon proof the applicant or ~~licensed psychologist licensee~~:
 - a. Has been convicted of an offense determined by the board to have a direct bearing upon ~~a person's~~ an individual's ability to serve the public as a psychologist ~~or industrial-organizational psychologist~~, or ~~when if~~ the board finds, after the conviction of any offense, that a ~~person~~ an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
 - b. Is using any narcotic or alcoholic beverage to an extent or in a manner dangerous to the ~~psychologist~~ applicant or licensee, any other person, or the public, or to an extent that the use impairs the ~~psychologist's~~ applicant's or licensee's ability to perform the ~~work of a professional psychologist practice of psychology or industrial-organizational psychology~~ with safety to the public.
 - c. Has impersonated another ~~person~~ individual holding a psychology ~~or industrial-organizational psychology~~ license or allowed another person to use the ~~psychologist's~~ licensee's license.
 - d. Has used fraud or deception in applying for a license or in taking an examination under this chapter.
 - e. Has allowed the ~~psychologist's~~ licensee's name or license issued under this chapter to be used in connection with any person who performs psychological services outside of the area of that person's training, experience, or competence.
 - f. Is legally adjudicated insane or mentally incompetent. The record of the adjudication is conclusive evidence of that fact.
 - g. Has engaged in any form of unethical conduct as defined in ethical principles of psychologists and code of conduct as adopted and published by the American psychological association, 1992, or revised editions if adopted by the board by rule.
 - h. Has become grossly negligent in the practice of ~~the profession~~ psychology or industrial-organizational psychology.
 - i. Has willfully or negligently violated this chapter.
 - j. Has engaged in an act in violation of rules adopted by the board.

2. ~~A person~~ An individual whose license has been revoked under this section may reapply for ~~licensing~~ licensure after two years have elapsed from the date of revocation.

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

43-32-27.1. Complaints - Investigations.

1. A person aggrieved by the actions of a ~~psychologist licensed under this chapter~~ licensee may file a written complaint with the board citing the specific allegations of misconduct by the ~~psychologist licensee~~. The board shall notify the ~~psychologist licensee~~ of the complaint and request a written response from the ~~psychologist licensee~~.
2. The board may investigate a complaint on ~~its~~ the board's own motion, without requiring the identity of the complainant to be made a matter of public record, if the board concludes that good cause exists for preserving the confidentiality of the complainant.
3. A ~~psychologist licensee~~ who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation, and providing copies of patient or client records ~~when~~ if reasonably requested by the board and accompanied by the appropriate release.
4. In order to pursue an investigation, the board may subpoena and examine witnesses and records, including patient and client records, and may copy, photograph, or take samples of the records. The board may require the ~~licensed psychologist licensee~~ to give statements under oath, to submit to a physical or psychological examination, or both, by a physician or other qualified evaluation professional selected by the board, if requiring an examination is in the best interest of the public. The patient and client records released to the board are not public records.
5. Unless a patient or client release is on file allowing the release of information at the public hearing, patient and client records acquired by the board in ~~its~~ the board's investigation are confidential and closed to the public. All board meetings at which patient or client testimony or records are taken or reviewed are confidential and closed to the public. If ~~no~~ patient or client testimony or records are not taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

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

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

1. Any ~~person~~ individual in the employ of any federal, state, county or municipal agency, or other political subdivision, or any nonprofit corporation or educational institution presently chartered by this state, insofar as the activities and services of the ~~person~~ individual are a part of the duties of the person's office or position with such agency, nonprofit corporation, or institution. This exemption is not available or effective after July 1, 2001. However, the exemption period may be extended by the board in individual cases where hardship or other good cause is shown by the agency, nonprofit corporation, or institution covered, or where the ~~person~~ individual affected has received from a school or college a master's degree in

psychology and the ~~person's~~ individual's activities and services with such agency, nonprofit corporation, or institution are performed under the supervision of a ~~licensed~~ psychologist. After reviewing the exemption under this subsection, the board and the department of human services shall review their definitions and rules for a master's degree in psychology as used in their own credential requirements.

2. A student or intern pursuing a course of study in psychology or industrial-organizational psychology at a school or college, if the activities and services are a part of the ~~person's~~ individual's supervised course of study, provided the student or intern does not use the title "psychologist" or "industrial-organizational psychologist" and the student or intern status is clearly stated.
3. A nonresident licensed or certified in the state of the ~~person's~~ individual's residence who does not practice psychology or industrial-organizational psychology in this state for a period of more than thirty days in any calendar year.
4. A lecturer, from any school or college, who uses an academic or research title when lecturing to institutions or organizations. However, the lecturer may not engage in the practice of psychology or industrial-organizational psychology unless the lecturer is licensed ~~to practice psychology in this state under this chapter.~~
5. ~~A person~~ An individual employed by a public school ~~and whose if that individual's~~ activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption applies only ~~when if the person individual~~ if the individual has received a master's degree in school psychology from an accredited graduate training program. Standards must be established by mutual consent of the board and the superintendent of public instruction.
6. A person certified, licensed, or registered in this state in another health care profession, ~~whose the scope of practice of which is consistent with the accepted standards of that person's profession and who does.~~ A person claiming an exemption under this subsection may not represent to be rendering psychological services.
7. An applicant licensed to practice psychology or industrial-organizational psychology in another jurisdiction, pending disposition of the applicant's application in this state, if the applicant notifies the board on a form provided by the board of the applicant's intent to practice pending disposition of the application and the applicant adheres to the requirements of this chapter and the rules adopted by the board.
8. A person employed by an agency, a nonprofit corporation, or an institution ~~who if that person~~ is currently exempt from licensure. A person exempt under this subsection continues to be exempt if the person continues employment in the same position with the agency, nonprofit corporation, or institution that applied for and received the exemption.
9. A ~~psychologist~~ psychology resident performing services supervised as provided under section 43-32-20.1.

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

43-32-32. Drugs - Medicine. ~~Nothing in this~~ This chapter may not be construed as permitting psychologists licensed under this chapter a licensee to

administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.

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

Renumber accordingly

Date: 2/11/05
Roll Call Vote #: 7

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1439

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50621.0203

Action Taken Do Pass As Amended

Motion Made By Rep Sitte Seconded By Rep Horter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Horter

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

Rep Horter move to amend the bill.
Rep. Sitte second
Voice vote motion carried.

REPORT OF STANDING COMMITTEE

HB 1439: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1439 was placed on the Sixth order on the calendar.

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-32-01. Definitions.

1. "Board" means the North Dakota state board of psychologist examiners.
2. "Industrial-organizational psychologist" means an individual who is licensed under this chapter to engage in the practice of industrial-organizational psychology.
3. "Industrial-organizational psychology" means the provision of psychological research services or consultation services to a group or an organization. The term does not include the delivery or supervision of services to individuals who are themselves, rather than the group or organization, the intended beneficiaries of the services, regardless of the source or extent of payment for services rendered.
4. "Licensee" means an industrial-organizational psychologist or a psychologist.
5. "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The term includes psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychotherapy, and other therapeutic techniques based on psychological principles; diagnosis and treatment of mental and emotional disorder or disability, compulsive disorders, disorders of habit or conduct as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. The term includes providing psychological services to individuals, families, groups, and the public regardless of whether payment is received for services rendered.
- ~~6.~~ 6. "Psychologist" means an individual who is licensed under this chapter in the practice of psychology.

4. 7. "Psychology resident" means an individual who has received from ~~an~~ accredited a school or college a doctorate degree in a program of study substantially psychological in nature, and who is involved in supervised psychological employment.
5. 8. "School or college" means any university or other institution of higher learning ~~that~~ which is accredited by a regional accrediting association, offering a full-time graduate course of study in industrial-organizational psychology or psychology.

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

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

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

43-32-07. Meetings of board - Seal of board. The board shall hold at least one regular meeting each year. Additional meetings may be held upon call of the president or at the written request of the governor or of any two members of the board. The meetings must be held at such places as the board may designate. The board ~~shall~~ must have a seal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Except as otherwise provided by under this chapter, ~~no individual~~ a person may not engage in the practice of psychology or represent that ~~individual~~ person is to be a psychologist in this state ~~after August 1, 1993, unless that person is an individual who has obtained from the board a license to do so~~ who is licensed as a psychologist under this chapter. Except as otherwise provided by this chapter, a person may not engage in the practice of industrial-organizational psychology or represent that person to be an

industrial-organizational psychologist in this state unless that person is an individual who is licensed as a psychologist or an industrial-organizational psychologist under this chapter.

2. A psychologist may use the title "psychologist" or similar title in conjunction with the practice of psychology. An industrial-organizational psychologist may use the title "industrial psychologist", "organizational psychologist", "industrial-organizational psychologist", "IO psychologist", or similar title in conjunction with the practice of industrial-organizational psychology. An industrial-organizational psychologist may not use the title "psychologist" or similar title representing that the individual is licensed as a psychologist.

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

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

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

43-32-20. Licensing - Written and oral examination - Qualifications of applicants. The board shall issue a license to each applicant who files an application upon a form and in a manner the board prescribes, submits the required fee, and demonstrates to the board that the applicant: meets the requirements of subsection 1 or 2.

1. An applicant for licensure as a psychologist shall demonstrate the applicant:
 - a. Will adhere to the American psychological association ethical principles of psychologists and code of conduct, 1992, or revised editions if adopted by the board by rule.
 2. b. Has received from an accredited school or college as defined by this chapter a doctorate degree in a program of studies substantially psychological in nature.
 3. c. Has passed the examinations, written or, oral, or both, as the board deems determines necessary.
 4. d. Has completed at least two full years of supervised professional experience, one year of which must be an internship program, and one year of which must be postdoctoral. Both years of experience must comply with the board's rules.
2. An applicant for licensure as an industrial-organizational psychologist shall demonstrate the applicant:
 - a. Will adhere to the American psychological association ethical principles of psychologists and code of conduct, 1992, or revised editions if adopted by the board by rule.

- b. Has received from a school or college a doctorate degree in a program of studies substantially psychological in nature.
- c. Has passed the examinations, written, oral, or both, as the board determines necessary.
- d. Has completed the professional experience requirements established by the board. The requirements may not exceed the professional experience requirements for psychologists. If the professional experience requirements include a supervised experience requirement:
 - (1) The board must allow an applicant to submit to the board a personalized plan for supervised experience which may include distance-supervision by a qualified industrial-organizational psychologist.
 - (2) The board may adopt rules to establish who is qualified to perform supervision, supervision requirements, and reporting.

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

43-32-20.1. Postdoctoral supervised psychological employment.

- 1- This section applies to postdoctoral supervised psychological employment. Supervision may only be performed by ~~alicensed~~ psychologist with a competency in supervision in professional psychology in the area of practice being supervised.
- 2- Supervision of an applicant for psychologist licensure ~~as a licensed psychologist~~ must include at least two hours of regularly scheduled direct supervision a week for full-time employment, one hour of which must be with the supervisor on a one-to-one basis. The remaining hour may be with other mental health professionals designated by the supervisor. The board may approve an exception to the weekly supervision requirement for a week ~~when~~ during which the supervisor was ill or otherwise unable to provide supervision. The board may prorate the two hours per week of supervision for ~~persons~~ individuals preparing for licensure on a part-time basis.
- 3- The board may adopt rules regarding postdoctoral psychology supervision requirements and reporting.

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

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

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

43-32-25. Retention of examination records. The board shall keep the written examination ~~papers and score report~~, an accurate recording of the questions and answers relating to the oral examinations, and the grade assigned to each answer thereof as a part of ~~its~~ the board's records for at least two years ~~subsequent to following~~ the date of the examination. In addition, the board shall keep a permanent record of all written examination score reports.

SECTION 16. AMENDMENT. Section 43-32-26 of the North Dakota Century Code is amended and reenacted as follows:

43-32-26. Issuance and display of license. The board is the sole agency empowered to examine competence in the practice of psychology. ~~Such~~ A license certificate issued by the board must show the full name of the licensee, have a serial number ~~and~~, be signed by the president of the board, and be attested by the secretary under the board's adopted seal. The license issued by the board ~~under the provisions of this chapter~~ must be prominently displayed at the principal place of business ~~where~~ at which the psychologist licensee practices.

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

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

1. The board, after notice ~~and~~, hearing, ~~and by~~ an affirmative vote of at least a majority of board members, may withhold, deny, revoke, or suspend any ~~psychologist~~ license issued or applied for under this chapter, ~~or and may~~ otherwise discipline a ~~licensed psychologist, licensee or an applicant~~ upon proof the applicant or ~~licensed psychologist licensee~~:
 - a. Has been convicted of an offense determined by the board to have a direct bearing upon ~~a person's~~ an individual's ability to serve the public as a psychologist or industrial-organizational psychologist, or ~~when if~~ the board finds, after the conviction of any offense, that ~~a person~~ an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
 - b. Is using any narcotic or alcoholic beverage to an extent or in a manner dangerous to the ~~psychologist applicant or licensee~~, any other person, or the public, or to an extent that the use impairs the ~~psychologist's~~ applicant's or licensee's ability to perform the ~~work of a professional psychologist practice of psychology or industrial-organizational psychology~~ with safety to the public.
 - c. Has impersonated another ~~person~~ individual holding a psychology or industrial-organizational psychology license or allowed another person to use the ~~psychologist's~~ licensee's license.
 - d. Has used fraud or deception in applying for a license or in taking an examination under this chapter.
 - e. Has allowed the ~~psychologist's~~ licensee's name or license issued under this chapter to be used in connection with any person who performs psychological services outside of the area of that person's training, experience, or competence.

- f. Is legally adjudicated insane or mentally incompetent. The record of the adjudication is conclusive evidence of that fact.
 - g. Has engaged in any form of unethical conduct as defined in ethical principles of psychologists and code of conduct as adopted and published by the American psychological association, 1992, or revised editions if adopted by the board by rule.
 - h. Has become grossly negligent in the practice of ~~the profession~~ psychology or industrial-organizational psychology.
 - i. Has willfully or negligently violated this chapter.
 - j. Has engaged in an act in violation of rules adopted by the board.
2. ~~A person~~ An individual whose license has been revoked under this section may reapply for ~~licensing~~ licensure after two years have elapsed from the date of revocation.

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

43-32-27.1. Complaints - Investigations.

- 1. A person aggrieved by the actions of a ~~psychologist licensed under this chapter~~ licensee may file a written complaint with the board citing the specific allegations of misconduct by the ~~psychologist licensee~~ psychologist licensee. The board shall notify the ~~psychologist licensee~~ psychologist licensee of the complaint and request a written response from the ~~psychologist licensee~~ psychologist licensee.
- 2. The board may investigate a complaint on ~~its~~ the board's own motion, without requiring the identity of the complainant to be made a matter of public record, if the board concludes that good cause exists for preserving the confidentiality of the complainant.
- 3. A ~~psychologist licensee~~ psychologist licensee who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation; and providing copies of patient or client records ~~when~~ if reasonably requested by the board and accompanied by the appropriate release.
- 4. In order to pursue an investigation, the board may subpoena and examine witnesses and records, including patient and client records, and may copy, photograph, or take samples of the records. The board may require the ~~licensed psychologist licensee~~ psychologist licensee to give statements under oath, to submit to a physical or psychological examination, or both, by a physician or other qualified evaluation professional selected by the board, if requiring an examination is in the best interest of the public. The patient and client records released to the board are not public records.
- 5. Unless a patient or client release is on file allowing the release of information at the public hearing, patient and client records acquired by the board in ~~its~~ the board's investigation are confidential and closed to the public. All board meetings at which patient or client testimony or records are taken or reviewed are confidential and closed to the public. If ~~no~~

patient or client testimony or records are not taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

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

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

1. Any ~~person~~ individual in the employ of any federal, state, county or municipal agency, or other political subdivision, or any nonprofit corporation or educational institution presently chartered by this state, insofar as the activities and services of the ~~person~~ individual are a part of the duties of the person's office or position with such agency, nonprofit corporation, or institution. This exemption is not available or effective after July 1, 2001. However, the exemption period may be extended by the board in individual cases where hardship or other good cause is shown by the agency, nonprofit corporation, or institution covered, or where the ~~person~~ individual affected has received from a school or college a master's degree in psychology and the ~~person's individual's~~ activities and services with such agency, nonprofit corporation, or institution are performed under the supervision of a ~~licensed~~ psychologist. After reviewing the exemption under this subsection, the board and the department of human services shall review their definitions and rules for a master's degree in psychology as used in their own credential requirements.
2. A student or intern pursuing a course of study in psychology or industrial-organizational psychology at a school or college, if the activities and services are a part of the ~~person's individual's~~ supervised course of study, provided the student or intern does not use the title "psychologist" or "industrial-organizational psychologist" and the student or intern status is clearly stated.
3. A nonresident licensed or certified in the state of the ~~person's~~ individual's residence who does not practice psychology or industrial-organizational psychology in this state for a period of more than thirty days in any calendar year.
4. A lecturer, from any school or college, who uses an academic or research title when lecturing to institutions or organizations. However, the lecturer may not engage in the practice of psychology or industrial-organizational psychology unless the lecturer is licensed ~~to practice psychology in this state under this chapter.~~
5. ~~A person~~ An individual employed by a public school ~~and whose if that~~ individual's activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption applies only ~~when if~~ the ~~person~~ individual has received a master's degree in school psychology from an accredited graduate training program. Standards must be established by mutual consent of the board and the superintendent of public instruction.
6. A person certified, licensed, or registered in this state in another health care profession, ~~whose the scope of practice of which~~ whose the scope of practice of which is consistent with the accepted standards of that person's profession ~~and who does.~~ A

person claiming an exemption under this subsection may not represent to be rendering psychological services.

7. An applicant licensed to practice psychology or industrial-organizational psychology in another jurisdiction, pending disposition of the applicant's application in this state, if the applicant notifies the board on a form provided by the board of the applicant's intent to practice pending disposition of the application and the applicant adheres to the requirements of this chapter and the rules adopted by the board.
8. A person employed by an agency, a nonprofit corporation, or an institution ~~who~~ if that person is currently exempt from licensure. A person exempt under this subsection continues to be exempt if the person continues employment in the same position with the agency, nonprofit corporation, or institution that applied for and received the exemption.
9. A ~~psychologist~~ psychology resident performing services supervised as provided under section 43-32-20.1.

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

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

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

Renumber accordingly

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1439

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1439**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date March 3, 2005

Tape Number	Side A	Side B	Meter #
1		x	140-6229
2	x		0-143
2			693-877
Committee Clerk Signature <i>Diane Davis</i>			

Chairman Krebsbach opens hearing on **HB 1439**

Relating to ND state board of psychologist examiners licenser of industrial-organizational psychologists.

(tape 1, side B, meter #140)

Representative Wrangham - Introduced bill and is in support of. This bill deals with IO psychologists (Industrial/Organizational Psychology). This bill in no way dilutes the strict and necessary standards for the licensing of clinical psychologists. It is to recognize the distinct differences between clinical and IO psychologists.

(meter #331)

Representative Pat Galvin - Would like to introduce an amendment to this bill. He was on the sub-committee and thinks they over looked this. He would like to remove IO psychologist and make sure the public knows what kind of psychologist they are dealing with.

Senator Krebsbach - Asked if he had spoken with the sponsor of the bill.

Rep. Galvin - Said no but he did speak with his committee. He did not think this was such a great change.

(meter #732)

Kimberly McDowall-Long - See written testimony.

Senator Nelson - Questioned section 4, about rules. Who is putting together the rules.

McDowall-Long - Does not have that information.

Senator Krebsbach - Asked how many IO psychologist there are in the state.

McDowall-Long - Said she is the only one she knows of.

Senator Brown - Asked where she did her doctoral work.

McDowall- Long - Said she is currently a doctoral candidate working through Minneapolis University in distance learning.

Senator Krebsbach - Asked if this is a growing career.

McDowall-Long - Said she hopes so, there is tremendous opportunity here.

Senator Syverson - Said he can see the need for this profession. Asked if she sees a need to be represented on the board. Would you have your interests defended.

McDowall-Long - Explained she doesn't see the need yet, since she is the only one right now. She has been counceled to seek legal representation.

Senator Syverson - He said he read that psychologists could do what she is trained to do.

McDowall-Long - Thinks it comes down to market share. It would be totally inappropriate for IO psychologists to practice clinical psychology.

Senator Lee - Wondered why clinical would crossover.

McDowall-Long- Thought it is not her place to address that.

Senator Lee - Asked if there is any accreditation for IO psychologist and how do you choose a program.

McDowall-Long- Replied yes, the American Psychological Association accredits programs in psychology. The APA does not accredit IO programs, only clinical programs. That has been one of the biggest hurdles in this state.

Senator Lee - Does not question the program Ms. McDowall-Long is with but is concerned with others out there offering IO.

McDowall-Long - Talked about an extensive list in the ND Century Code, section 6602 that constitutes appropriate accreditation programs.

Senator Syverson - Asked if human engineering or plant lay out are part of IO psychology.

McDowall-Long - Said yes, you can choose to specialize in those areas.

Senator Syverson - Asked if she would become involved with personal counseling.

McDowall-Long - Said no she would go to the plant manager.

Senator Krebsbach - Said she can see a need for this in company mergers.

McDowall-Long - That is something she has chosen not to go in because she hopes to build most of her practice in ND. Most of her business comes from out of state. She is choosing to focus on human factors.

Senator Krebsbach - Asked if there is any of our Higher Ed facilities offering this program

Senator Krebbach - Asked when this program originated.

McDowall-Long - Said as far back as 1933.

Senator Syverson - Asked if she could consult to other parts of the country.

McDowall-Long - Said about 85% is done out of state.

(meter #3530)

Senator Lee - Mentioned big challenges in her area with refugees. Does see that this profession could be a help in that.

Dr. Christine Kuchler - Licensed psychologist in ND and president of the ND state board of Examiners. See written testimony. In support of this bill.

Senator Krebsbach - Asked Dr. Kuchler how she feels about developing the rules.

Kuchler - Replied they are prepared to research, and prepared to meet the challenge.

Bonnie Staiger - Executive Director of ND Psychology Association - In support of this bill.

She added to the rules process and that the cost would be on the board of the ND Psychologists.

She said there will be no stone unturned with great scrutiny and professionalism.

Senator Krebsbach - Asked her if this is a growing profession.

Staiger - Said absolutely.

(meter #5037)

Staiger - Said the development and crafting of rules has to ultimately be supported by the statute.

There isn't anything that can be created in rules that does not follow the actual statute that it is in coordination with.

Senator Nelson - Pointed out section 4 that says you may and you shall, will you be doing all this at once with the rules.

Kuchler - Responded said she would envision anything in the engrossed bill that requires a rule they would try to address all at once.

Closed hearing on 1439.

(meter #5550)

Discussion followed on accreditation of programs. Concern is for the benefit of the student.

McDowall-Long mentioned that Rep. Klemin read from the code that in order to be licensed in ND current statute you must have graduated from a APA accredited program. APA accreditation does not apply to IO psychology. She would endorse any reasonable accreditation. Dr. Kuchler said she thinks this form of accreditation has nothing to do with a specific professional accreditation of a program.

(end of tape 1, side B, meter #6229)

(tape 2, side A)

Senator Nelson has trouble with Rep. Galvin's amendment. Dirk will draw up another amendment.

(meter #143)

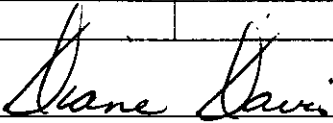
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1439**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date March 3, 2005

Tape Number	Side A	Side B	Meter #
2		x	693-877
Committee Clerk Signature 			

Chairman Krebsbach opens committee work on **HB 1439**

Relating to ND state board of psychologist examiners licenser of industrial-organizational psychologists.

Senator Brown moves do pass on the amendment

Senator Syverson seconded

Senator Lee moves do pass as amended

Senator Brown seconded

Senator Syverson will carry

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1439

Page 5, line 10, after the second underscored comma insert "or"

Page 5, line 11, remove ", "IO psychologist", or similar title"

Renumber accordingly

Date: 3/3/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1439

Senate **Government and Veterans Affairs**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass on the amendment

Motion Made By

Senator Beeson

Seconded By

Syversen

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syversen	X				

Total

(Yes)

5

No

0

Absent

0

Floor Assignment _____

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

Date: 3/3/05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1439

Senate Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Senator Lee Seconded By Senator Brown

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Syverson

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

REPORT OF STANDING COMMITTEE

HB 1439, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1439 was placed on the Sixth order on the calendar.

Page 5, line 10, after the second underscored comma insert "or"

Page 5, line 11, remove ", "IO psychologist", or similar title"

Page 6, line 4, remove the overstrike over "~~an accredited~~", remove "a", and remove the overstrike over "~~as defined by this~~"

Page 6, line 5, remove the overstrike over "~~chapter~~"

Renumber accordingly

2005 TESTIMONY

HB 1439

Testimony on HB 1439
Representative Dwight Wrangham

Good Morning Chairman Haas and members of the Government and Veterans Affairs Committee.

I introduced HB 1439 to modernize our state licensing regulations to keep up with our expanding world of knowledge and vocations. As we all know the information explosion has changed many professions. There is much more specialization in all fields.

Psychology is no different. There are distinct differences in specific areas of psychology. Industrial/ organizational psychology is a totally different field than clinical psychology. Our licensing procedures and requirements were developed specifically for clinical psychology.

HB 1439 is in no way intended to dilute the strict standards for the licensing of clinical psychologists. The intent is to recognize the distinct differences and allow a professional with a doctoral degree in Industrial/ Organizational Psychology to practice their trade in North Dakota.

To craft this bill I worked with the legislative council. We took the best parts of Colorado and Illinois statutes and combined them with recommendations from the American Psychological Association Model Act.

One of the professionals I referred to earlier is here today and can better answer technical questions.

Thank You

Proposed Changes to NDCC 43-32

**Exempting
Industrial/Organizational
Psychologists
from Licensure in North Dakota**

What is IO Psychology?

"In addition to the psychological science . . . The knowledge base of IO Psychology is also influenced by the evolving knowledge bases in other disciplines such as business, labor and industrial relations, ergonomics, physiology and medicine, and law."

(American Psychological Association. Archival Description of Industrial and Organizational Psychology. www.apa.org/crsppp/io.html)

What is IO Psychology?

Industrial-organizational psychologists help develop strategies that build better organizations. An IO psychologist can help you with staffing, workforce development, and workplace climate issues. IO Psychologists work on issues relating to human resource management and organizational development.

(Society for Industrial/Organizational Psychology)

Psychology is a Divided Profession

- ♦ The profession is divided into four general specialties.
- ♦ There are many kinds of psychologists. Not all psychologists deliver services to individuals.
- ♦ IO psychologists do not deliver services intended to benefit individuals or groups of individuals. Instead, the beneficiaries of their services are organizations.

Divisions within Psychology

General Practice Specialties

- Clinical Psychology
- Counseling Psychology
- School Psychology
- Industrial-Organizational Psychology
(a distinct type of General Practice Specialty)

Drum, D. J., & Blom, B. E. (2001). The dynamics of specialization in professional psychology [Electronic version]. *Professional Psychology: Research and Practice*, 32(5), 513-521.

Risks to Public Health

- ♦ IO Psychologists who deliver services to organizations, rather than individuals, do not pose a risk to public health.
- ♦ IO Psychologists perform work that is often indistinguishable from that performed by human resource managers and business consultants.

Risks to Public Health

- ♦ Psychologists who deliver services to individuals are covered by NDCC 43-32 and 66-02.
- ♦ Under the proposed changes to NDCC 43-32, IO Psychologists who provided services to individuals would still be required to obtain licensure.

Problems with Current Law

- ♦ The training and preparation of IO Psychologists is distinct from that of clinical psychologists.
- ♦ The current law was written to address the needs of clinical specialties.
- ♦ There is no accommodation for IO Psychologists in ND state law.

Problems with Current Law

- ♦ Qualified IO Psychologists, with accredited doctorates in psychology, are barred from using the words "organizational psychologist" to describe themselves.
- ♦ The current law poses a significant obstacle to individuals, who pursue doctoral training in psychology, from recognizing a return on their investment in their education in ND.

The Proposed Change

- ♦ The Society for Industrial/Organizational Psychologists (a division of the APA) supports exemption when current state law does not accommodate the unique training and preparation of IO psychologists.
- ♦ Two states already provide exemptions for IO psychologists.
 - Colorado
 - Illinois

Problems with Current Law

- ♦ We must be willing to make reasonable accommodations for highly trained professionals within our statutes.
- ♦ Failure to do so will exacerbate the out-migration of young, educated professionals from North Dakota, to states such as Colorado and Illinois.

The Proposed Change

The language of the proposed change to 43-32 comes from the American Psychological Association's Model Act for State Licensure of Psychologists, the Colorado Mental Health Statute (12-43-306) and the Illinois Compiled Statutes (225 ILCS 15/4).

Local Response to NDPA

I am in receipt of your legislative proposal and will mull it over in the next couple of days in order to decide if I want my name cursed, demeaned, and generally denigrated by certain members of the North Dakota Psychological Association. (I am not currently a member of this organization for the simple reason that they are primarily preoccupied with clinical/counseling matters and not very interested in any other professional issues).

(North Dakota PhD in IO Psychology. Name withheld to prevent professional backlash.)

Recommendations for Further Reading

- American Psychological Association. (1987). Model act for licensure of psychologists. *American Psychologist*, 42(7), 696-703.
- Drum, D. J., & Blom, B. E. (2001). The dynamics of specialization in professional psychology [Electronic version]. *Professional Psychology: Research and Practice*, 32(5), 613-621.
- Olvey, C. D., Hogg, A., & Counts, W. (2002). Licensure requirements: have we raised the bar too far? [Electronic version]. *Professional Psychology: Research and Practice*, 33(3), 3323-3329.
- Society of Industrial and Organizational Psychology [SIOP]. (2002). *Considerations for evaluating I-O psychologists for licensing*. Retrieved December 3, 2004, from <http://www.siop.org/Licensure/EvaluatingPsychologists/text.htm#Profession%20of%20I-O>
- Society of Industrial and Organizational Psychology [SIOP]. (2002). *Abridged petition for the recognition of Industrial and Organizational Psychology as a specialty in professional psychology by the Committee on the Recognition of Specialties and Proficiencies in Professional Psychology*. Retrieved December 3, 2004, from <http://www.siop.org/history/crsppp.htm>

Good morning Chairman Haas and Members of the Committee, My name is Kimberly McDowall-Long. I am a resident of District 14, and a doctoral candidate in Industrial/Organizational Psychology through the regionally accredited Harold Abel School of Psychology at Capella University located in Minneapolis, MN. I am here today to ask each member of this committee to support HB 1439, allowing industrial/organizational psychologists to be exempted from licensure under NDCC 43-32.

What is Industrial Organizational Psychology?

Industrial-organizational psychologists help businesses and other organizations to improve their organizations. They develop strategies to improve employee relations, build strong teams, and reduce organizational conflict. Industrial/organizational psychology is an important facet of good human resource management. Industrial organizational psychologists work on issues related to compensation, staffing, employee retention, workforce development, and organizational change. They offer services that are often indistinguishable from those offered by traditional business consultants. Industrial/organizational psychology is an integral part of management and business. Industrial/organizational psychologists generally do not have training in mental illness, psychopathology, or the provision of psychotherapy. In fact, psychology is a divided profession.

Psychology is a Divided Profession

According to the scholarly journal, *Professional Psychology: Research and Practice*, the profession of psychology is composed of four distinct specialties. Three of those specialties are clinical; that is, they deal with helping individuals to cope with the stresses of daily life, or through the diagnosis and treatment of mental illness. These three specialties are clinical psychology, counseling psychology, and school psychology.

However, there is one other general practice specialty - one that does not provide therapy to individuals. That specialty is industrial/organizational psychology. The training and preparation of industrial/organizational psychologists is different from that of the other three specialties. All psychologists share a core of study relating to basic psychology such as the biological basis of behavior, the psychology of learning, social psychology, developmental psychology, and testing and assessment. However, while clinical psychologists then go off to study psychopathology (mental illness), psychotherapy, and complete clinical internships, industrial/organizational psychologists branch off in the latter stages of their doctoral work to study compensation and benefits, workplace safety, employee motivation, and organizational behavior. Industrial/organizational psychologists do not complete field internships.

Industrial/organizational psychologists do not deliver services intended to benefit individuals or groups of individuals, nor do they offer the diagnosis of mental illness or psychotherapy. Instead, the beneficiaries of their services are organizations. This distinct specialty has its own separate division within the American Psychological Association called the Society for Industrial Organizational Psychology.

Because there are many fewer industrial/organizational psychologists than clinical psychologists, certain problems have evolved pertaining to psychologist licensure statutes. Here in North Dakota, the statutes pertaining to psychologist licensure address the training and preparation of clinical, but not industrial/organizational psychologists. For example, in North Dakota, psychologists are required to complete two thousand hours of supervised internship and an additional two thousand hours of supervised postdoctoral experience. However, as I noted earlier, the training and preparation of industrial/organizational psychologists does not include pre-doctoral field internships or residencies.

According to the Society for Industrial Organizational Psychology, *"Accreditation requirements, internship requirements, and models for supervision that do not provide a means by which I-O psychologists may reasonably meet the requirements of licensure fail to recognize the diversity of models for training and practice in psychology . . . At least two states, Illinois and Colorado, specifically exempt I-O psychologists from all licensure requirements. We encourage state and provincial licensing boards to consider this option if their licensing requirements make it impossible for an I-O psychologist to obtain a license in their jurisdiction."*

In addition, the American Psychological Association's own Model Act for State Licensure of Psychologists contains language that exempts industrial/organizational psychologists. The APA document states *"Nothing in this Act shall be construed to prevent the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions, provided that such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered."* A copy of this document is included with my written testimony.

North Dakota's statutes do not accommodate the unique training and preparation of industrial/organizational psychologists. In fact, as of July 2004 North Dakota had less than 200 licensed psychologists. Therefore, rather than rewrite the North Dakota Century Code, Section 66-02 pertaining to psychologists, HB 1439 has been introduced to exempt industrial/organizational psychologists from licensure, in accordance with the recommendations of the Society for Industrial Organizational Psychologists and the American Psychological Association.

The language of the exemption was based on the Colorado and Illinois statutes as well as the American Psychological Association's Model Act. Copies of the Colorado and Illinois exemptions are also included for your convenience with my written testimony. HB 1439 allows qualified persons who hold an earned doctorate degree in organizational psychology from a regionally accredited university to practice as industrial/organizational psychologists in North Dakota so long as they do not pose a threat to public health. It also allows persons holding earned doctorate degrees in organizational psychology from regionally accredited universities to call themselves "organizational psychologists," something that is prohibited under North Dakota's current statutes.

Risks to Public Health

Obviously, the greatest concern for all of us, when considering exempting some group from licensure is the potential risk to public health. So, let's consider the protections for public health.

- ♦ Psychologists who deliver services to individuals are covered by NDCC 43-32 and 66-02.
- ♦ Under HB 1439, industrial/organizational psychologists who provide services to individuals would still be required to obtain licensure.
- ♦ Industrial/organizational psychologists who deliver services to organizations, rather than individuals, do not pose a risk to public health.
- ♦ Why? Because industrial/organizational psychologists perform work that is often indistinguishable from that performed by human resource managers and other business consultants.

Summary

Mr. Chairman and Members of the committee, I ask for your support of HB 1439. It is possible today, thanks to the explosion of communications technology, for your constituents in Mott, Kenmare, Hazen, or Bismarck, to stay here in North Dakota even as they pursue masters and doctoral degrees from fully accredited universities across the United States. Much of my own secondary doctoral research has been conducted through Johns Hopkins University, even as I have been able to work full-time here in Bismarck. In order to retain young professionals, it is essential that we make reasonable accommodations in those laws that may prompt others like me to consider leaving the state upon completion of our graduate educations.

I ask for your support as a citizen whose sole wish is to stay here in North Dakota upon completion of my doctorate degree. I ask for nothing more than the opportunity to work hard while playing by the rules. Under the current licensure standards, I will never have the privilege of calling myself an organizational psychologist in North Dakota even after I have spent more than 12 years in college and spent more than \$100,000 on my education.

The amendment proposed under HB 1439 provides strong protections for public health. It does not provide a cloak under which an unqualified psychologist may provide psychological diagnosis or therapy to members of the public. The language proposed in HB 1439 provides stronger protections for public health than either the Colorado or Illinois statutes, and even stronger protections than those advocated by the American Psychological Association. Please, support HB 1439.

Thank you for your consideration.

Recommendations for Further Reading

- ♦ American Psychological Association. (1987). Model act for licensure of psychologists. *American Psychologist*, 42(7), 696-703.

- ♦ Drum, D. J., & Blom, B. E. (2001). The dynamics of specialization in professional psychology [Electronic version]. *Professional Psychology: Research and Practice*, 32(5), 513-521.
- ♦ Olvey, C. D., Hogg, A., & Counts, W. (2002). Licensure requirements: have we raised the bar too far? [Electronic version]. *Professional Psychology, Research and Practice*, 33(3), 3323-3329.
- ♦ Society of Industrial and Organizational Psychology [SIOP]. (2002). *Considerations for evaluating I-O psychologists for licensing*. Retrieved December 3, 2004, from <http://www.siop.org/Licensure/EvaluatingPsychologists/text.htm#Profession%20of%20I-O>
- ♦ Society of Industrial and Organizational Psychology [SIOP]. (2002). *Abridged petition for the recognition of Industrial and Organizational Psychology as a specialty in professional psychology by the Committee on the Recognition of Specialties and Proficiencies in Professional Psychology*. Retrieved December 3, 2004, from <http://www.siop.org/history/crsppp.htm>

American Psychological Association
Model Act for Licensure of Psychologists

Exemption for Industrial Organizational Psychologists: **Section J**

Nothing in this Act shall be construed to prevent the teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions, provided that such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. (p. 700)

American Psychological Association. (1987). Model act for licensure of psychologists. *American Psychologist*, 42(7), 696-703.

Colorado Mental Health Statute

Effective July 1, 2004

Colorado Mental Health Licensing Section

<http://www.dora.state.co.us/mental-health/mhstatutes.pdf>

Exemption for Industrial Organizational Psychologists: 12-43-306

Subsection 4. 12-43-306. Nothing in this part 3 shall be construed to limit the use of an official title on the part of any doctoral level graduate of a research psychology program or an industrial or organizational psychology program from a regionally accredited university while engaged in the conduct of psychological research or the provision of psychological consultation to organizations or institutions if such services do not include the clinical practice of psychology.

Illinois Compiled Statutes
Courtesy of the Illinois Division of Professional Regulation

Illinois General Assembly by the
Legislative Information System, 705 Stratton Building, Springfield, Illinois 62706
217-782-3944 217-524-6059 (Fax) 217-782-2050 (TDD)

Exemption for Industrial Organizational Psychologists: 225 ILCS 15/4

Subsection f: Nothing in this Act shall be construed to limit the activities and use of the title "psychologist" on the part of a person who practices psychology and (i) who possesses a doctoral degree earned in a program concentrated primarily on the study of psychology; and (ii) whose services involve the development and application of psychological theory and methodology to problems of organizations and problems of individuals and groups in organizational settings; and provided further that such person is not in any manner held out to the public as practicing clinical psychology and is not held out to the public by any title, description or designation stating or implying that he or she is a clinical psychologist unless he or she has been licensed under the provisions of this Act.

Good morning Chairman Haas and Members of the Committee,

My name is James Long and I am here to testify in support of HB-1439, allowing industrial/organizational psychologists to be exempted from licensure under NDCC 43-32.

Essentially, I feel that HB-1439 is a good piece of legislation for several reasons.

1. It is drafted from recommendations forwarded by the governing body of psychology. If anyone stands in opposition of HB-1439, I would like to ask them one question, "Why should North Dakota stand apart from the recommendations of the American Psychological Association?" To restate previous testimony, the APA does, "*encourage state and provincial licensing boards to consider this option if their licensing requirements make it impossible for an I-O psychologist to obtain a license in their jurisdiction.*" Chairman Haas and members of the committee, under the current system, it is impossible for many qualified and talented industrial and organizational psychologists to obtain a license under North Dakota's antiquated system.
2. This unnecessarily restrictive nature of this licensure forces talented North Dakotans to flee the state in search of employment. Initially when I was drafting my testimony, I was reluctant to bring this point up. Many may say, "Don't let the door hit you on your way out." Yet, the more I think about it, it is apparent that everyone in this room wants what is best for North Dakota. Outmigration threatens to strip North Dakota of its most valuable resource, our talented citizens. This antiquated licensure policy has already robbed North Dakota of many qualified professionals. HB-1439 would serve as a measure to help reverse outmigration and I want everyone in this room to feel that they are part of that solution.
3. Finally, as a business professional with a PhD in Organization and Management, I am able to perform work that our currently unlicensed I-O psychologists cannot. Why is this? Do I have an increase amount of knowledge, skills, and abilities when compared to these unlicensed professionals? Certainly not, the schooling necessary to attain a degree in I-O psychology is exceedingly advanced and can be incredibly useful to an organization. Even if I didn't have a degree at all, I could perform business consulting that people like Kimberly could not because of the limitations place on her. One may say, "Why don't these unlicensed I-O psychologists just call themselves business consultants?" The answer to this question is simple and direct, "They do not call themselves consultants because that is not what they are." I-O psychologists are doctors. According to the American Psychological Association and their accredited universities, they have earned the right to call themselves industrial and organizational psychologists. Chairman Haas and members of the committee, I strongly urge that we as North Dakotans heed the advice offered from these academic and psychological governing bodies.

North Dakota is progressive and forward-thinking. In order for our state to become more progressive and grow in a manner consistent with well-circulated estimates, we must take measures to correct legislation that is inconsistent with the common good. Outmigration and unnecessary restrictions are good for no one, least of all our people and our great state.

Chairman Haas and members of the committee, thank you for your time and please support HB-1439. I would be honored to answer any questions you may have.

Chairman Haas and Members of the Committee,

My name is Dr. Alan Fehr. I am a licensed psychologist in North Dakota and I am a member of the North Dakota State Board of Psychologist Examiners. I am here as a representative of the psychologist licensing board, and we are here to oppose House Bill No. 1439.

The board consists of five psychologists appointed by the Governor, and our only purpose is to protect the public by regulating the profession of psychology. We perform this public protection function primarily in two ways: first, by assuring that people who obtain licenses to practice psychology in North Dakota have an appropriate common core of formal academic training and supervised experience, and secondly, by investigating and acting upon complaints about licensed psychologists that are made by citizens. We oppose this bill because we believe that it fails the public on both of these counts.

First, the proposed exemption to the psychologist licensing law negates the common core of formal academic training and supervised experience that the legislature has clearly defined as necessary for someone using the title of "psychologist" and to practice psychology in North Dakota. The only aspect of this core that is retained in the exemption is that the person graduate from a psychology program from a regionally accredited school or college. This is a bare minimum necessity, but it is insufficient, as defined in our law. To be licensed as a psychologist in North Dakota, the individual must also graduate from a program that is approved by the American Psychological Association (APA), or be determined by the board as equivalent to an approved program. They must meet supervised experience requirements, both predoctoral and postdoctoral. They must pass a national written examination that taps into all the domains expected to have been mastered by someone who wants to call him or herself a psychologist. They must pass an oral examination with the board, demonstrating that they are familiar with the laws of North Dakota as they pertain to psychologists, and with the application of ethical principles and standards of conduct of psychologists. Once licensed, they must meet continuing education requirements, showing that they are keeping current with developments in the profession as it relates to their own practice. This bill would eliminate all of these requirements. From the public's viewpoint, there would be no way of distinguishing a licensed psychologist who meets all these requirements that have been set out in law and carefully examined by the board for every licensure applicant and ongoing licensee, and someone who calls him or herself a psychologist under this exemption, who meets practically none of these requirements. This is not fair to the consumer, who has come to trust that in North Dakota, the title of psychologist means something, and cannot be used by someone unless important and meaningful qualifications have been met.

Secondly, in regard to investigating complaints: this bill would exempt the practitioner from the jurisdiction of the board to investigate and act upon complaints brought by citizens. That is, if the psychologist exempted under this provision behaved unethically, the citizen would have no board to complain to, which could investigate and act on the complaint if it is indicated. The board would be powerless to instruct the exempted

individual to "cease and desist" from the unethical practice, and if they did not, to suspend or revoke the individual's right to continue in the practice. This we do not believe to be in the interests of public protection.

The board believes that licensed practitioners, who must have appropriate credentials, and who are bound to ethical principles and conduct of psychology, best serve the interests of the public. Licensed psychologists can meet this need, and they are bound to the rules that protect the public. The board is aware of many licensed psychologists who serve as organizational and consulting psychologists. They satisfy the needs for public protection *as well as* the needs of the organizations for researchers or consultants. We believe that exemptions to this should be held to a minimum, and only added when there is compelling evidence of need. At present, we do not see compelling evidence of need to add to the exemptions. Not a single organization has approached the board, requesting that an exemption be created for a "research psychologist" or a "consulting psychologist" who cannot meet the current requirements of licensure. In fact, to our knowledge, there is only one individual seeking to change the law to exempt herself from it.

Therefore we believe that House Bill 1439 is both unnecessary, and contrary to the interests of public protection in North Dakota.

Thank you very much for this opportunity to express the view of the board. I would welcome any questions from the committee.

Alan Fehr, Ph.D.
Member, ND State Board of Psychologist Examiners

Chairman Haas and members of the Committee

My name is Bonnie Larson Staiger (#273), Executive Director of the North Dakota Psychological Association.

NDPA is generally in support of House Bill #1439 provided a few minor changes are made. We believe the intent of HB #1439 is to prevent the I/O psychologist from the practice of psychology without a license, and believe that language needs to be strengthened in this bill.

We would like to see the phrase "clinical practice of psychology" tied to the definition of "practice of psychology" as defined in the century code (43-32-01-02). Additionally, we recommend striking "if the services do not include the clinical practice of psychology" and adding "as long as the services are not part of the practice of psychology as defined in 43-32-01-02". These changes more closely parallel the APA Model Act for State Licensure of Psychologists (American Psychologist, 1987).

Testimony on HB 1439 Representative Dwight Wrangham

Good Morning Chairwomen Krebsbach and members of the Government and Veterans Affairs Committee.

HB 1439 was introduced to modernize our state licensing regulations to keep up with our expanding world of knowledge and vocations. As we all know the information explosion has changed many professions. There is much more specialization in all fields.

Psychology is no different. There are distinct differences in specific areas of psychology. Industrial/ organizational psychology is a totally different field than clinical psychology. Our licensing procedures and requirements were developed specifically for clinical psychology.

A little history. HB 1439 as originally introduced would have allowed I/O Psychologists to work without the unworkable regulations which were designed specifically for clinical psychologists. To craft the original bill, I worked with the legislative council. We took the best parts of Colorado and Illinois law and combined them with recommendations from the American Psychological Association Model Act.

HB 1439 was in no way intended to dilute the strict standards for the licensing of clinical psychologists. The intent is to recognize the distinct differences between clinical and I/O psychologists and recognize that I/O psychologists do not deal with public health issues. This would allow professionals with doctoral degrees in Industrial/ Organizational Psychology to practice their trade in North Dakota.

The House Ed Committee formed a sub committee that worked with interested parties and came up with this engrossed bill.

Kim McDowell, One of the professionals I referred to earlier, is here today and can better answer technical questions.

Thank You

Chairman Krebsbach and Members of the Committee,

My name is Dr. Christine Kuchler. I am a licensed psychologist in North Dakota and I am president of the North Dakota State Board of Psychologist Examiners. I am here as a representative of the board, and we are here to support the Engrossed version of House Bill No. 1439.

The board opposed the *original* version of this bill because we believed that by *exempting* I/O psychologists from licensure, the public would not be adequately protected from practitioners who were inadequately trained, and secondly, because *exempted* practitioners would not be accountable to any board in the event of unethical practice. The House Committee on Government and Veterans Affairs asked if the Board would be agreeable to bringing I/O psychologists under our licensure law, as opposed to exempting them, and we indicated that we would be agreeable to this. We cooperated with the House subcommittee in offering amendments to the licensure law, and, after refinement by the Legislative Council, these amendments were approved unanimously by the House Committee, and were subsequently passed unanimously by the House.

The engrossed version of this bill offers any individual the opportunity for licensure as an Industrial-organizational (I/O) psychologist in North Dakota. It addresses the concerns expressed in the hearing of the original bill in the House, and it upholds the national standards that exist for this specialty area of practice. Specifically, these concerns include the following:

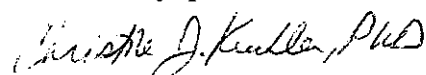
- 1) The engrossed bill offers an option for licensure as an I/O Psychologist that is separate and distinct from generic licensure as a psychologist. The concern had been that our generic licensure was designed for clinical, or health care providing, psychologists. The engrossed bill offers a separate definition, and a separate definition for scope of practice.
- 2) The engrossed bill offers the ability to define through rule what constitutes an educational program acceptable for the licensing of industrial-organizational psychologists. Furthermore, the engrossed version states that the educational program rules for I/O psychologists *must take into account* the availability of professionally accredited programs in the field of I-O psychology.
- 3) The engrossed bill requires that an applicant for licensure as an I/O psychologist will demonstrate that they will adhere to American Psychological Association ethical principles of psychologists and code of conduct. This, the board believes to be essential for public protection.
- 4) The engrossed bill requires that the applicant for licensure as an I/O psychologist will pass the written or oral or both examinations as the board deems necessary. These examinations are believed to be *especially* important to candidates for licensure as an I/O psychologist, because there are no *professional* accreditation standards for doctoral programs in I/O psychology. The Society for Industrial Organizational Society, SIOP, which is Division 14 of the American Psychological Association, recognizes the need for I/O psychologists seeking licensure to meet requirements for written examination. They state on their

website, "All states and provinces require candidates to pass the *Examination for Professional Practice in Psychology*." North Dakota requires that all licensure candidates pass this examination. North Dakota also requires that candidates for licensure pass an oral examination, which is designed to evaluate the candidate's knowledge of North Dakota law as it pertains to the practice of psychology, and the candidate's knowledge of psychologist ethics and the ability to apply these to everyday practice scenarios.

- 5) The engrossed bill requires that an applicant for licensure as an I/O psychologist meet a supervised experience requirement that *does not exceed* that for currently licensed psychologists. In addition, the engrossed bill allows for a personalized plan for supervised experience that allows for distance-supervision by a qualified I/O psychologist. This provision specifically remedies the concern expressed at the House hearing, that it is difficult to obtain appropriate supervised experience within ND. Quoting again from the SIOP website, "SIOP believes in the importance of strong supervised experience to supplement academic training. It is critical that such supervised experience be appropriate to the specific practice of I/O psychology." The engrossed bill meets this standard.
- 6) The engrossed bill requires continuing education of I/O psychologists. This, the board also believes to be essential to the public interest and protection.

In summary, we believe that the engrossed bill provides an opportunity for licensure as an I/O psychologist under existing North Dakota law, while at the same time protecting the public by assuring adequate qualifications, continuing education, and accountability of licensees.

Thank you very much for this opportunity to express the views of the board. I would welcome any questions from the committee.



Christine J. Kuchler, Ph.D.

President, ND State Board of Psychologist Examiners

Good morning Chairman Krebsbach and Members of the Committee,
My name is Kimberly McDowall-Long. I am a resident of District 14, and a doctoral candidate in Industrial/Organizational Psychology through the regionally accredited Harold Abel School of Psychology at Capella University located in Minneapolis, MN. I am here today to ask each member of this committee to support HB 1439.

A Brief History

Some years ago, when I was at the beginning of my doctoral studies, I contacted the State Board of Psychologist Examiners as part of a class project. We were directed to contact our state licensing bodies to determine whether we would need to become licensed to practice in our home states and what the requirements for licensure would entail.

As a student of industrial/organizational (IO) psychology, which is considered to be a non-licensure track, I was quite surprised to hear from the Board's representative that they would expect me to obtain a license if I did anything related to career development. Because I already had a Masters in Business and already did Human Resource consulting, this was most-disconcerting. I explained that I already did career development with my Masters in Business, and was at no legal risk for doing so with the business degree. The Board's representative told me that they knew there were a number of problems with the current law and that it would be at least 6 to 8 years before anything could be done about. Frustrated, I thanked him for his time and hung up.

Upset by the prospect of having to wait 6 to 8 years for something to be done about a known problem, I began researching licensure for psychologists. As I neared the end of my doctoral studies, I attempted to build a relationship with both the Board of Psychologist Examiners and the North Dakota Psychological Association to see if it might be possible to work together to improve the state's licensure law. Both refused to talk to me about the issue.

I shared my frustration with some professional organizations I belong to. Representative Wrangham heard my story and offered to help. HB 1439 was originally introduced to

exempt industrial/organizational psychologists from licensure, in accordance with the recommendations of the American Psychological Association and the Society for Industrial Organizational Psychologists.

Under North Dakota's current law, it is impossible for Industrial/Organizational psychologists to become licensed. The primary reason is that the current law evolved to meet the needs of clinical psychologists. Clinical psychologists help individuals to cope with the stresses of daily life, or through the diagnosis and treatment of mental illness.

In contrast, Industrial/Organizational Psychologists help businesses to improve their organizations. They develop strategies to improve employee relations, build strong teams, and reduce organizational conflict. Industrial/organizational psychology is an important facet of good human resource management. Industrial organizational psychologists work on issues related to compensation, staffing, employee retention, workforce development, and organizational change. They offer services that are often indistinguishable from those offered by traditional business consultants. Industrial/organizational psychology is an integral part of management and business. Industrial/organizational psychologists generally do not have training in mental illness, psychopathology, or the provision of psychotherapy.

The fact is, psychology is a divided profession composed of three clinical specialties: clinical psychology, counseling psychology, and school psychology. However, there is one other general practice specialty - one that does not provide therapy to individuals. That specialty is industrial/organizational psychology. The training and preparation of industrial/organizational psychologists is different from that of the other three specialties. All psychologists share a core of study relating to basic psychology such as the biological basis of behavior, the psychology of learning, social psychology, developmental psychology, and testing and assessment. However, while clinical psychologists study psychopathology (mental illness), psychotherapy, and complete clinical internships during the latter portion of their doctoral studies, industrial/organizational psychologists

branch off in the latter stages of their doctoral work to study compensation and benefits, workplace safety, employee motivation, and organizational behavior.

Industrial/organizational psychologists generally do not complete field internships nor do they complete post-doctoral supervised training because they do not deliver services intended to benefit individuals or groups of individuals, nor do they offer the diagnosis of mental illness or psychotherapy. Instead, the beneficiaries of their services are organizations. This distinct specialty has its own separate division within the American Psychological Association called the Society for Industrial Organizational Psychology.

Because there are many fewer industrial/organizational psychologists than clinical psychologists, certain problems have evolved pertaining to psychologist licensure statutes. Here in North Dakota, the statutes pertaining to psychologist licensure address the training and preparation of clinical, but not industrial/organizational psychologists. For example, in North Dakota, psychologists are required to complete two thousand hours of supervised internship and an additional two thousand hours of supervised postdoctoral experience. However, as I noted earlier, the training and preparation of industrial/organizational psychologists does not include pre-doctoral field internships or post-doctoral residencies. To provide you with a better understanding of the issues that led to this bill, my original testimony before the House Government and Veterans Affairs Committee is attached herewith.

HB 1439 as Amended

Today, you are asked to consider the merits of HB 1439. In its current state, the bill is a compromise between the original bill that Representative Wrangham introduced on my behalf, the ND Board of Psychologist Examiners, and the ND Psychological Association. In fact, almost all of the language of the current bill was suggested by the representative the North Dakota Psychological Association.

Through a strong bi-partisan effort in the House Government and Veterans Affairs subcommittee, particularly on the parts of representatives Horter, Grande, and Conrad,

the current bill directs the ND Board of Psychologist Examiners to develop licensure standards that meet the needs of industrial/organizational psychologists in North Dakota. As you may know, the bill in its current state passed the House 86 to zero.

Support for Licensure of Industrial/Organizational Psychologists

It is important to note that the American Psychological Association in its own Model Act for State Licensure of Psychologists, recommends that state boards exempt Industrial/Organizational psychologists precisely because they do not offer services that benefit individuals. In addition, two other states, Colorado and Illinois, also exempt industrial/organizational psychologists from licensure. However, the Board and members of the House Government and Veterans Affairs Committee felt that it was important to provide some measure of state oversight to the practice of industrial/organizational psychology in this state. As someone who has been actively involved on this bill since its inception, I am in full support of the current bill as amended.

However, it is essential to note that this bill directs the state Board of Psychologist Examiners to develop rules that allow for the licensure of industrial organizational psychologists in this state, due to the fact that that the training and preparation of industrial psychologists is different from that of clinical psychologists. In fact, in this compromise bill, the Board itself adopted the language that the American Psychological Association used to provide a rational for exemption from licensure in the very definition of industrial/organizational psychology.

Specifically, if you refer to Section 43-32-01, number 3, lines 16 through 18 under the proposed bill, you will note that the definition of industrial/organizational psychology explicitly excludes the "delivery or supervision of services to individuals who are themselves, rather than the group or organization, the intended beneficiaries of the services, regardless of the source or extent of payment for services rendered." If you refer the American Psychological Association's Model Act attached to my written testimony, you will see that on page 700, this language is used in the clause pertaining to the exemption of industrial/organizational psychologists.

Given that the Board, in this compromise bill, has embraced language directly lifted from the American Psychological Association's Model Act that allows for exemption from licensure for IO psychologists, it is important for the administrative rules that will arise from the passage of this bill to include accommodations that are both reasonable and appropriate to the practice of industrial psychology and not merely adopt rules that were developed for clinical psychologists.

Summary

Madame Chairman and Members of the committee, I ask for your support of HB 1439. The current bill, as amended, is a good compromise that will allow industrial psychologists to be licensed by the State Board of Psychologist Examiners and will also provide a measure of oversight for the profession that does not now currently exist. Certainly, all the primary stakeholders in this matter will need to remain engaged throughout the drafting and acceptance of the administrative rules to follow. The final rules must take into account the unique training and preparation of industrial psychologists and not merely attempt to apply the rules developed for clinical and counseling psychologists to industrial psychologists; that short-sighted policy is what brought this issue before this assembly in the first place.

The bill as amended, is the result of strong bi-partisan work in the House GVA subcommittee, and represents a compromise between the primary stakeholders in this state. The bill did pass the House of Representatives on a margin of 86 to zero. I ask that this committee recommend a "DO PASS" on this compromise bill to ensure that qualified industrial psychologists may have the opportunity to practice in the state of North Dakota and to contribute to its continued growth and economic development.

Thank you for your consideration.

Recommendations for Further Reading

- ♦ American Psychological Association. (1987). Model act for licensure of psychologists. *American Psychologist*, 42(7), 696-703.
- ♦ Drum, D. J., & Blom, B. E. (2001). The dynamics of specialization in professional psychology [Electronic version]. *Professional Psychology: Research and Practice*, 32(5), 513-521.
- ♦ Olvey, C. D., Hogg, A., & Counts, W. (2002). Licensure requirements: have we raised the bar too far? [Electronic version]. *Professional Psychology, Research and Practice*, 33(3), 3323-3329.
- ♦ Society of Industrial and Organizational Psychology [SIOP]. (2002). *Considerations for evaluating I-O psychologists for licensing*. Retrieved December 3, 2004, from <http://www.siop.org/Licensure/EvaluatingPsychologists/text.htm#Profession%20of%20I-O>
- ♦ Society of Industrial and Organizational Psychology [SIOP]. (2002). *Abridged petition for the recognition of Industrial and Organizational Psychology as a specialty in professional psychology by the Committee on the Recognition of Specialties and Proficiencies in Professional Psychology*. Retrieved December 3, 2004, from <http://www.siop.org/history/crsppp.htm>

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Model Act for State Licensure of Psychologists

As APA policy, the Model Act serves as a prototype for drafting state legislation regulating the practice of psychology. State legislatures are encouraged to use the language of this document and the policies that it espouses as the model for their own state licensure law. Inevitably each state law will reflect compromises and changes particular to that state, but the APA Model Act is meant to serve as a guide for those involved in the drafting process. State licensing boards must develop their own rules and regulations to supplement the legislation proposed here.

This is the fourth set of guidelines for state legislation regulating the practice of psychology that has been developed by the American Psychological Association (APA). The first model for such regulation was developed and adopted as APA policy in 1955 (APA, 1955).

The 1955 guidelines stood for 12 years, during which the number of states enacting licensure legislation grew from 9 to 32. In 1967 the APA Committee on State Legislation (COSL) prepared the first revision of the guidelines. That revision was more comprehensive, provided more detailed guidance, and covered more issues relating to regulation of the practice of psychology, while reaffirming the basic concept found in the 1955 model (APA, 1967).

By 1977 all states and the District of Columbia had enacted licensure legislation. APA's Council of Representatives then determined that the model approved in 1967 was outdated and directed COSL to undertake a revision. However, in January 1979 the Council of Representatives failed to approve the revised model guidelines, leaving the 1967 guidelines to remain as APA policy.

In 1984 the Council of Representatives directed the Board of Professional Affairs (BPA) to develop another revision of the existing 1967 model for the Council's consideration. BPA, in turn, directed its Committee on Professional Practice (COPP) to prepare it.

A COPP subcommittee undertook this effort. Its early drafts were based on a review of the comments provided by APA governance units and divisions regarding the 1979 COSL proposal. Specific recommendations were received from the Board of Directors (B/D) Subcommittee on the Future of Professional Psychology in April 1985. Numerous drafts were subsequently developed and revised based on comments provided by members of COPP and BPA, the American Association of State Psychology Boards, individual psychologists from around the country and Canada, relevant APA divisions and governance groups, unaffiliated psychology interest groups, and APA legal counsel. This document, Draft 14, is the result of three years of continual discussion, review, and compromise by many concerned and dedicated APA members. It was passed unanimously by the Council of Representatives on February 7, 1987.

Each section of the proposed Model Act is introduced by commentary, the purpose of which is to explain the rationale for the proposed section that follows. To differentiate between the commentary and the proposed statutory language, the latter is set in smaller type.

A. Declaration of Policy

This section declares that the intent of legislation for state licensure of psychologists is to ensure the practice of psychology in the public interest. The consumer should be assured that psychological services will be provided by qualified professionals. The public must also be protected from the consequences of unprofessional conduct by persons licensed to practice psychology.

The practice of psychology in (name of state) is hereby declared to affect the public health, safety, and welfare, and to be subject to regulation to protect the public from the practice of psychology by unqualified persons and from unprofessional conduct by persons licensed to practice psychology.

B. Definitions

Definitions provide consistent interpretation throughout the Act without unnecessary repetition of terms. Thus *Board* once defined in this section can subsequently be cited with the same meaning as presented in the definition.

In defining *institution of higher education*, professional schools are included as a result of a number of suggestions to recognize these institutions' growing contributions to the education and training of professional psychologists. It is further recognized that many foreign institutions prepare psychologists for professional practice, and provision should be made to accommodate them in Board regulations.

In 1979, the definition of the *practice of psychology* appeared to be the major obstacle that prevented passage of the Committee on State Legislation's (COSL) guidelines. A predominant concern in defining the practice of psychology for the purpose of licensure is to describe psychological services adequately. These services must be specified in order to identify clearly the areas of psychological services, provided to individuals or groups of individuals, that require qualified and sound professional psychological practice. The final definition in this section deals with the term *psychologist* as it applies to the Act in the provision of psychological services. The title "psychologist" is also used by psychologists who are exempt from licensure as specified in Section J of this Act in their roles as teachers, researchers, and consultants to or employees of organizations.

1. *Board* means the (name of state) State Board of Examiners of Psychologists.

2. *Institution of higher education* means any regionally accredited institution of higher education in the United States, including a professional school, that offers a full-time doctoral course of study in psychology that is acceptable to the Board. For Canadian universities, it means an institution of higher education that holds recognized membership in the Association of Universities and Colleges of Canada.
3. *Practice of psychology* is defined as the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures, for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered. (See Section I for exemptions.)
4. *Psychologist*: A person represents himself or herself to be a psychologist if that person uses any title or description of services incorporating the words *psychology*, *psychological*, or *psychologist*, or if he or she possesses expert qualification in any area of psychology, or if that person offers to the public or renders to individuals or to groups of individuals services defined as the practice of psychology in this Act.

C. State Board of Examiners of Psychologists

Legislation concerning the membership of the Board of Examiners should designate a sufficient number of members to accomplish the work of the Board, as well as make provisions for the appointment of public members. The appointing authority shall ensure that specialties in psychology are represented, as well as trainers and practitioners.

The Model Act was developed over a period of three years, and was largely the work of Jarold R. Niven and Norma P. Simon, both members of the Board of Professional Affairs' Committee on Professional Practice (COPP). In the last year major revisions were accomplished by a COPP subcommittee chaired by Norma P. Simon and consisting of Jarold R. Niven, R. Mark Mays, David H. Reilly, and Tommy T. Stigall. As a member of the Board of Directors Subcommittee on the Future of Professional Psychology, Carl N. Zimet played a major role in the coordination process. Other COPP members who worked on the project over the three years include Jean L. Balinky, Jacob Chwast, Herbert Dorken, G. Rita Dudley, Thomas J. Hefele, Hannah R. Hirsh, Robert J. Resnick, and Castellano B. Turner. Bev Hitchins served as staff liaison to the project with the support of Patricia J. Aletky, Paul D. Nelson, and Russ Newman.

Correspondence concerning this document should be addressed to Office of Professional Affairs, American Psychological Association, 1200 17th St., NW, Washington, DC 20036.

ners. A minimum of five psychologists plus one public member is recommended.

The addition of public (consumer) members on boards is a recognition of the impact of consumerism on the current functioning of boards. The involvement of the public in Board affairs can be of great value to both psychology and the public and should be viewed as an opportunity to enhance the stature of psychology with the public.

Obviously, members should be appointed at staggered times so that the entire group of members is not replaced at any one time.

There is hereby created the (name of state) State Board of Examiners of Psychologists. The Board shall consist of minimally five licensed psychologists and one public member. At least two members shall be engaged full-time in the doctoral teaching and training of psychologists, and at least two members shall be engaged full-time in the professional practice of psychology. Psychologist Board members shall be licensed to practice in this state.

Each psychologist serving on the Board shall have a minimum of five years of postlicensure experience. Board members shall reflect a diversity of practice specialties.

Board members shall be appointed who are free from conflicts of interest in performing the duties of the Board. A public member shall not be a psychologist, an applicant or former applicant for licensure as a psychologist, a member of another health profession, or a member of a household that includes a psychologist, or otherwise have conflicts of interest or the appearance of such conflicts with duties as Board members. Appointments to the Board shall be made by the duly constituted appointing authority in this state. The appointing authority in this state shall solicit nominations from psychological organizations and licensed psychologists in this state. The term of office shall be five years, with provision for reappointment for one additional term. Lengths of terms of Board members shall be staggered. The Board as first constituted shall have two members, including the public member, appointed for five years; one member appointed for four years; two members appointed for three years; and one member appointed for two years.

It is clear that the Board will need, from time to time, to adopt or delete rules and regulations to carry out the provisions of the Act that establish and enable the Board to operate. It is wise to have this authority clearly established within the Act.

In addition to the powers set forth elsewhere in this Act, the Board may adopt rules and regulations to carry out the provisions of this Act.

It is desirable for the Board to be self-supporting. Self-generated fees should be sufficient to cover all costs. This avoids the necessity of the Board's returning to the budgetary authority for approval each time fees must be increased in order for the Board to remain self-supporting. Boards should consider carefully the various elements of expense in establishing fees. Items such as overhead, examination costs, travel and per diem, disciplinary proceedings, and other expenses should be considered.

The Board shall, from time to time, establish reasonable fees for the issuance and renewal of licenses and its other services. Fees shall be set so as to defray the cost of administering the provisions of this Act, including applications, examinations, enforcement, and the cost of maintaining the Board.

It is important to have within the Act a statement that a member of the Board shall not be civilly liable for any act performed in good faith and within the scope of duties of the Board. It should be noted that such a statement does not pertain to any criminal charges brought against a member of the Board.

A member of the Board or any employee or agent of the Board shall not be held civilly liable for any act performed in good faith and within the scope of the duties of the Board.

D. Requirements for Licensure

This recommendation includes significant changes from the 1967 guidelines. It should be noted that terms such as *department of psychology* and *PhD* are explicitly excluded from the recommended wording.

There is a core of basic theory, principles, and accumulated knowledge that all professional psychologists should possess. Each practitioner must also master the specific skills and knowledge appropriate for the competent performance of psychological practice. The language of the model requires the Board to specify its criteria for acceptable professional education in psychology. In this regard, the Board will be guided by national standards.

This revision states that by 1995 all applicants for licensure must minimally be graduates of a regionally accredited institution of higher education and must have completed a training program accredited by the American Psychological Association. Where no accreditation exists, the applicant will be required to meet standards developed by the Board. These standards will be based on recognized standards for the area of competence. The law recognizes that new doctoral programs may be developed in newly or already recognized specialties of professional psychology. In such instances, the law affords those programs an eight-year period in which to achieve accreditation, during which the graduates of those programs may sit for licensure.

1. Educational Requirements

The Act recognizes the doctorate as the minimum educational requirement for entry into professional practice as a psychologist.

Applicants for licensure shall possess a doctoral degree in psychology from an institution of higher education. The degree shall be obtained from a recognized program of graduate study in psychology as defined by the rules and regulations of the Board.

By 1995 applicants for licensure shall have completed a doctoral program in psychology that is accredited by the American Psychological Association (APA). In areas where no accreditation exists, applicants for licensure shall have completed a doctoral

program in psychology that meets recognized acceptable professional standards as determined by the Board. When a new specialty of professional psychology is recognized as being within the accreditation scope of the APA, doctoral programs within that specialty will be afforded a transition period of eight years from their first class of students to the time of their accreditation. During that transition period, graduates of such programs may sit for licensure examination whether or not the program has been accredited. The same principle applies as well to new doctoral programs of specialties previously recognized within the scope of APA accreditation.

Applicants trained in institutions outside the United States shall meet requirements established by the Board.

2. Experience Requirements

APA recommends that legislation requires one year of supervised experience subsequent to the granting of the doctorate. In rules and regulations, the Board must define acceptable supervised experience at the predoctoral and postdoctoral levels as well as mechanisms for evaluation of this experience. Psychologists are required to limit their practice to their demonstrated areas of professional competence. Experience should be compatible with training.

For admission to the licensure examination, applicants shall demonstrate that they have completed two years of supervised professional experience, one year of which shall be postdoctoral. The criteria for appropriate supervision shall be in accordance with regulations to be promulgated by the Board. Postdoctoral experience shall be compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice. Applicants shall be required to show evidence of good character, that is, that they have not been convicted of a criminal offense that bears directly on the fitness of the individual to be licensed.

3. Examinations

APA recommends that the Act specify the requirements for examination and the conditions under which the Board is authorized to waive examination. All examinations serve the purpose of verifying that a candidate for licensure has acquired a basic core of knowledge in the discipline of psychology and can apply that knowledge to the problems confronted in the practice of psychology. Boards should clearly specify the conditions under which the endorsement of another license will be granted. The Board shall administer examinations to qualified applicants on at least an annual basis. The Board shall determine the subject matter and scope of the examination and shall require a written, and may require an oral examination of each candidate for licensure. The Board at its discretion, according to rules and regulations promulgated by the Board, may waive said examination of candidates for licensure.

4. Prior Credentials

APA recommends that the Act provide for continued licensure of persons already licensed as a psychologist at the time of enactment of a new law.

A person who is licensed as a psychologist under the provisions of (cite relevant section(s) of previous licensing law) as of the effective date of this Act shall be deemed to have met all requirements for licensure under this Act and shall be eligible for renewal of licensure in accordance with the provisions of this Act.

E. Interstate Practice of Psychology

Psychologists may have legitimate interests in practicing in another jurisdiction for a limited amount of time. This section provides for limited practice in a jurisdiction other than the state in which the psychologist is licensed. The psychologist must have an earned doctoral degree in another jurisdiction.

Nothing in this Act shall be construed to prohibit the practice of psychology in this state by a person holding an earned doctoral degree in psychology from an institution of higher education who is licensed or certified as a psychologist under the laws of another jurisdiction, provided that the aggregate of sixty (60) days of professional services as a psychologist per year under the provision of this subsection is not exceeded.

F. Temporary Authorization to Practice

This portion of the Act provides for the conditions under which a licensed psychologist may practice until obtaining licensure in another jurisdiction. Provision is also made for the Board to waive examination if the requirements met by the psychologist in the original jurisdiction are judged to be equivalent to those in this state.

A psychologist licensed or certified under the laws of another jurisdiction may be authorized by the Board to practice psychology as defined in this Act for a maximum of one year, provided that the psychologist has made application to the Board for licensure and has met the educational and experience requirements for licensure in this state. Denial of licensure terminates this authorization. The Board may choose to waive examination if a psychologist has been licensed in another jurisdiction on the basis of qualifications that are not less than those required for licensure in this state.

G. Limitation of Practice

This provision of the Act is intended to ensure that licensed psychologists will not practice outside the limits of their competence. The burden of proof is on the applicant to provide evidence, acceptable to the Board, that the applicant has obtained the training necessary to engage in the practice of psychology in the specified area of competence. The Board may wish to develop forms that provide for the specification of the intended area of practice and the evidence necessary to document competence. This provision recognizes the broad areas of specialization (e.g., clinical, counseling, school, industrial/organizational) and emerging specialties (e.g., neuropsychology, environmental) and the variety of academic training as separate from proficiencies. It is expected that if the psychologist is trained in a broad specialty area, there are many proficiencies within that training that are possible areas of competence. This limitation is intended to ensure

that a psychologist trained in one area (e.g., experimental, developmental) will not practice in another area (e.g., counseling, industrial/organizational) without completing a retraining program.

The Board shall ensure through regulations and enforcement that licensees limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

H. Inactive Status

A psychologist who is on military assignment outside the state, suffering from health problems, on sabbatical, or who moves to another state may wish to be on inactive status. Relieving the psychologist from paying the fee will make it possible for that person to remain in good standing without being an active practitioner.

A psychologist in good standing who will not be practicing in the state for at least one year may petition the Board to have his or her license placed on inactive status without penalty. When such psychologist wishes to return to practice, an application shall be made to the Board, which shall reinstate him or her upon payment of the registration fee for the current year.

I. Practice Without a License

The Act must clearly specify what constitutes a violation of law and what penalties may be imposed for practice without a license or for misrepresentation of oneself as a psychologist. State legislatures have the latitude to determine penalties for such illegal activities. Boards are provided with the authority to suspend or revoke licenses and to prescribe conditions for reinstatement.

It shall be a violation of this Act for any person not licensed in accordance with the provisions of this Act to represent himself or herself as a psychologist. It shall be a violation of this Act for any person not licensed in accordance with the provisions of this Act to engage in the practice of psychology as defined in this Act, whether practicing as an individual, firm, partnership, corporation, agency, or other entity.

Any person who shall represent himself or herself as a psychologist in violation of this Act, or who shall engage in the practice of psychology in violation of this Act, shall be guilty of a misdemeanor and shall be fined not less than _____ dollars and not more than _____ dollars and, in addition thereto, may be imprisoned for not more than _____ months. Each day such person shall practice psychology without meeting all the requirements of all laws now in force and of this Act shall constitute a separate offense. Any person filing or attempting to file, as his or her own, a diploma or license of another or a forged affidavit of identification shall be guilty of a felony and shall be subject to the punishment prescribed for forgery in the second degree.

Whenever a license to practice as a psychologist in the state has been suspended or revoked, it shall be unlawful for the person whose license has been so suspended or revoked to practice psychology in this state. The Board may issue, with or without reexamination, a new license whenever it deems such course safe and just.

The Board on its own motion may investigate any evidence or

allegation that appears to show that any person is or may be in violation of any provision of this Act.

J. Exemptions

1. There should be an exemption from licensure for persons engaged solely in teaching, research, or provision of psychological services to organizations, because such activities are unlikely to pose a risk of immediate harm to the public health or welfare. For example, an organizational psychologist providing consultation to business in order to improve efficiency, a teacher of child development courses at a university, a researcher in the field of sleep disorders, and a social psychologist researching group behavior in stressful situations would all be exempt. The exemption should not be determined on the basis of work setting or place of primary employment, but on the basis of the purpose of the activity as defined in Section B3 (Practice of psychology). The exemption should not be allowed if the individual engages in the direct delivery or supervision of psychological services to individuals or groups of individuals in any setting. Persons engaged in teaching, research, or the provision of psychological services to organizations should not be excluded from licensure if they meet the statutory requirements for licensure.

Nothing in this Act shall be construed to prevent the teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions, provided that such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. Nothing in this Act shall prevent the provision of expert testimony by psychologists who are otherwise exempted by this Act. Persons holding an earned doctoral degree in psychology from an institution of higher education may use the title "psychologist" in conjunction with the activities permitted by this subsection.

2. Members of other established professions, such as physicians, attorneys, and clergy, may provide services that are similar or related to the scope of practice of psychology. They should be exempted from licensure on the condition that they not represent themselves to be psychologists.

Nothing in this Act shall be construed to prevent members of other recognized professions that are licensed, certified, or regulated under the laws of this state from rendering services consistent with their professional training and code of ethics, provided that they do not represent themselves to be psychologists. Duly recognized members of the clergy shall not be restricted from functioning in their ministerial capacity, provided that they do not represent themselves to be psychologists.

3. It is recognized that school psychologists who are certified by the state education agency are permitted to use the term *school psychologist* or *certified school psychologist* as long as they are practicing in the public schools.

Individuals who have been certified as school psychologists by the (cite relevant state education authority or statutory provisions) shall be permitted to use the term "school psychologist" or "certified school psychologist." Such persons shall be restricted in their practice to employment within those settings under the purview of the state board of education. By 1995 such exempted persons should be certificated by the state board of education on the basis of having completed a program for the preparation of school psychologists that is accredited by a specialized professional accrediting body recognized by the Council on Postsecondary Accreditation.

4. Graduate students, interns, postdoctoral trainees, and applicants for licensure are permitted to function under the supervision of a licensed psychologist, as are assistants not eligible for licensure in some states. None may use the title psychologist, but titles such as *psychological trainee*, *psychological intern*, *psychological resident*, and *psychological assistant* would be permissible under this exemption. The supervising psychologist is responsible for the actions of the student, trainee, or assistant. The Board is required to adopt regulations defining the nature and extent of training for qualified assistants and supervision for each category.

Nothing in this Act shall be construed to prevent persons from engaging in activities defined as the practice of psychology, provided that such persons shall not represent themselves by the title "psychologist." Such persons may use the terms "psychological trainee," "psychological intern," "psychological resident," and "psychological assistant" and provided further that such persons perform their activities under the supervision and responsibility of a licensed psychologist in accordance with regulations promulgated by the Board. Nothing in this section shall be construed to apply to any person other than:

- (a) a matriculated graduate student in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education;
- (b) an individual pursuing postdoctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under the provisions of this Act; or
- (c) a qualified assistant employed by, or otherwise directly accountable to, a licensed psychologist. The Board in regulations shall determine the number of assistants that a psychologist may employ and the conditions under which they will be supervised.

K. Grounds for Suspension or Revocation of Licenses

In order to have an effective law, the Board must have the power to suspend and revoke a license. In the previous guidelines, the offenses requiring suspension or revocation were not specified. Many state laws specify these offenses. Actions that are a violation of the standards subscribed to by the Board should be clearly stated in the licensing law. Two considerations are specified below that refer to specific points in the text that follows:

1. Concerning Numbers 6 and 7

The Board shall specify, in rules and regulations, criteria for determining how long or under what conditions an individual or group of individuals remains a patient or a client.

2. Concerning Number 17

In this section, physical condition shall be differentiated from physical disability. There is no intent to obstruct physically disabled candidates' entry into the profession of psychology nor from practicing their profession after licensure as long as they practice with reasonable skill and safety to patients or clients.

A psychologist and anyone under his or her supervision shall conduct his or her professional activities in conformity with ethical and professional standards promulgated by the Board under its rules and regulations.

The Board shall have the power and duty to suspend, place on probation, or require remediation for any psychologist for a specified time, to be determined at the discretion of the Board, or to revoke any license to practice psychology or to take any other action specified in the rules and regulations whenever the Board shall find by a preponderance of the evidence that the psychologist has engaged in any of the following acts or offenses:

1. fraud in applying for or procuring a license to practice psychology;
2. immoral, unprofessional, or dishonorable conduct as defined in the rules and regulations promulgated by the Board;
3. practicing psychology in such a manner as to endanger the welfare of clients or patients;
4. conviction of a felony (a copy of the record of conviction, certified to by the clerk of the court entering the conviction shall be conclusive evidence);
5. conviction of any crime or offense that reflects the inability of the practitioner to practice psychology with due regard for the health and safety of clients or patients;
6. harassment, intimidation, or abuse, sexual or otherwise, of a client or patient;
7. engaging in sexual intercourse or other sexual contact with a client or patient;
8. use of repeated untruthful or deceptive or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment, including functioning outside of one's professional competence established by education, training, and experience;
9. gross malpractice or repeated malpractice or gross negligence in the practice of psychology;
10. aiding or abetting the practice of psychology by any person not licensed by the Board;
11. conviction of fraud in filing Medicare or Medicaid claims or in filing claims to any third party payor (a copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence);
12. exercising undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
13. the suspension or revocation by another state of a license to practice psychology (a certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof);

14. refusal to appear before the Board after having been ordered to do so in writing by the executive officer or chair of the Board;

15. making any fraudulent or untrue statement to the Board;

16. violation of the code of ethics adopted in the rules and regulations of the Board; and

17. inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.

When the issue is whether or not a psychologist is physically or mentally capable of practicing psychology with reasonable skill and safety to patients or clients, then, upon a showing of probable cause to the Board that the psychologist is not capable of practicing psychology with reasonable skill and safety to patients, the Board may petition a court of competent jurisdiction to order the psychologist in question to submit to a psychological examination by a psychologist to determine psychological status and/or a physical examination by a physician to determine physical condition. Such psychologist and/or physician is to be designated by the court. The expense of such examination shall be borne by the Board. Where the psychologist raises the issue of mental or physical competence or appeals a decision regarding his or her mental or physical competence, the psychologist shall be permitted to obtain his or her own evaluation at the psychologist's expense. If the objectivity or adequacy of the examination is suspect, the Board may complete an examination by its designated practitioners at its own expense. When mental or physical capacity to practice is at issue, every psychologist licensed to practice psychology in the state shall be deemed to have given consent to submit to a mental or physical examination or to any combination of such examinations and to waive all objections to the admissibility of the examination, or to previously adjudicated evidence of mental incompetence.

L. Board Hearings and Investigations

In the interest of protecting the public, the Board must have authority to regulate the practice of psychology. This section specifies the powers and duties of the Board to conduct investigations, hold hearings, consider evidence or allegations brought against a psychologist, and to discipline a licensee for violation of law or regulation. Both the Board and licensee are required to follow due process standards in any disciplinary proceeding.

The Board on its own motion may investigate or cause to be investigated any allegation or evidence that appears to show that a psychologist licensed to practice in this state is, or may be, in violation of this Act or of any of the acts, offenses, or conditions set forth by the Board in rules and regulations.

The Board shall have the power and duty to suspend, place on probation, or require remediation for a licensee for a specified time, to be determined at the discretion of the Board, or to revoke any license to practice psychology, whenever the licensee shall be found by the Board, by a preponderance of the evidence, to have engaged in conduct prohibited by this Act or rules and regulations duly promulgated pursuant thereto.

Any psychologist holding a license to practice in this state is required to report to the Board any information such psychologist in good faith may have that appears to show that any psychologist holding a license to practice in this state may be in violation of this Act or guilty of any of the acts, offenses, or

conditions set forth by the Board. Any psychologist who in good faith makes such a report to the Board shall be absolutely immune from civil liability to any person for any statement or opinion made in such report.

If, in the opinion of the majority of the Board, there is probable cause that the information provided to it under the provisions of this section may be valid, the Board shall request by registered mail a formal interview with the psychologist. If the psychologist who is ordered to a formal interview before the Board refuses to appear for such interview, such refusal shall be considered grounds for the Board, at its discretion, to suspend or revoke the license of such psychologist. Any proceeding for suspension or revocation of a license to practice as a psychologist in this state shall be conducted in accordance with procedures established by the Board. The psychologist shall be informed of his or her rights concerning Board hearings and investigations:

1. the right to notice and hearing;
2. the right to self-representation or representation by counsel;
3. the right to produce witnesses and to confront and cross-examine opposing witnesses;
4. the right to a written decision setting forth the violation, findings of fact, sanctions, and reasons for the sanctions;
5. a determination of the size of the vote necessary to find a violation;
6. a determination whether the hearing will be closed or open to the public; and
7. the right to an appeal to an administrative board of review and/or to a court of competent jurisdiction.

The licensee may knowingly and voluntarily waive his or her right to the formal adversary proceeding described in this section.

The Board shall have the right to conduct an *ex parte* hearing if, after due notice, the individual fails or refuses to appear. The Board shall have the right to issue subpoenas for production of documents and witnesses and to administer oaths. The Board shall have the right to apply to a court of competent jurisdiction to take appropriate action should a subpoena not be obeyed.

The Board shall temporarily suspend the license of a psychologist without a hearing simultaneously with the institution of proceedings for a hearing provided under this section if the Board finds that evidence in its possession indicates that the psychologist's continuation in practice may constitute an immediate danger to the public. Appropriate officials may petition the court for an injunction barring further practice unless or until the person is properly licensed. The injunction may be issued in addition to, or in lieu of, the criminal sanctions provided for in this section.

A psychologist may surrender his or her license when such person is charged with unethical conduct and upon receipt of that charge, that person decides to surrender the license, such surrender and acceptance by the Board shall constitute acknowledgment by the psychologist of guilt as charged.

A psychologist may request in writing to the Board that a restriction be placed upon his or her license to practice as a psychologist. The Board, in its discretion, may accept a surrender or grant such a request for restriction and shall have the authority to attach such restrictions to the license of the psychologist to practice psychology within this state or otherwise to discipline the licensee.

Subsequent to the holding of a hearing and the taking of evidence by the Board as provided for in this section, if a majority of the

Board finds that a psychologist is in violation of this Act or guilty of any of the acts, offenses, or conditions as enumerated by the Board, the following actions may be taken:

1. The Board may revoke or suspend the license and impose a monetary penalty.
2. The Board may suspend imposition of a revocation or suspension of a license and/or a monetary penalty.
3. The Board may impose revocation or suspension of a license and/or a monetary penalty, but suspend enforcement thereof by placing the psychologist on probation, which probation shall be revocable if the Board finds the conditions of the probation order are not being followed by the psychologist.
4. As a condition of probation the Board may require the psychologist to submit to care, counseling, or treatment by a professional designated by the Board. The expense of such action shall be borne by the psychologist.
5. The Board may, at any time, modify the conditions of the probation and may include among them any reasonable condition for the purpose of the protection of the public, or for the purpose of the rehabilitation of the probationer, or both.
6. The Board shall have the power to require restitution when necessary.
7. The Board shall have the power to assess the costs of the disciplinary proceeding.

M. Privileged Communication

This section regulates and limits the powers of the judicial system. The courts or other administrative agencies with subpoena power have the right to make use of all relevant information in the judicial fact-finding process unless this right of access to information is specifically limited. Historically, courts and legislatures have been charged with fact-finding in order to seek truth and administer justice. At the same time they have attempted to maintain the integrity of the confidential and private relationship between psychologist and patient or client. However, some societal issues have emerged, such as child abuse and sexual abuse, that have changed the absolute nature of privileged communication. Though the privilege is not absolute, it is designed to be sufficiently broad to cover all situations except those specifically enumerated. It is a privilege "owned" by the patient or client, who may assert it or waive it, although the psychologist may assert it for a patient or client who wishes to maintain such privilege of communication. It is understood that the privilege encompasses only communications between the patient or client and the psychologist in a professional relationship.

In judicial proceedings, whether civil, criminal, or juvenile; in legislative and administrative proceedings; and in proceedings preliminary and ancillary thereto, a patient or client, or his or her guardian or personal representative, may refuse to disclose or prevent the disclosure of confidential information, including information contained in administrative records, communicated to a psychologist licensed or otherwise authorized to practice psychology under the laws of this jurisdiction, or to persons reasonably believed by the patient or client to be so licensed, and their agents, for the purpose of diagnosis, evaluation, or treatment of any mental or emotional condition or disorder. In the absence of evidence to the contrary, the psychologist is presumed authorized to claim the privilege on the patient's or client's behalf.

This privilege may not be claimed by the patient or client, or on his or her behalf by authorized persons, in the following circumstances:

1. where abuse or harmful neglect of children, the elderly, or disabled or incompetent individuals is known or reasonably suspected;
2. where the validity of a will of a former patient or client is contested;
3. where such information is necessary for the psychologist to defend against a malpractice action brought by the patient or client;
4. where an immediate threat of physical violence against a readily identifiable victim is disclosed to the psychologist;
5. in the context of civil commitment proceedings, where an immediate threat of self-inflicted damage is disclosed to the psychologist;
6. where the patient or client, by alleging mental or emotional damages in litigation, puts his or her mental state at issue;
7. where the patient or client is examined pursuant to court order; or
8. in the context of investigations and hearings brought by the patient or client and conducted by the Board, where violations of this Act are at issue.

N. Severability

As with any law, one provision may be subject to court challenge and ruled invalid or unconstitutional. For example, it is not legally clear whether state licensing boards can regulate persons working for federal agencies. Thus, if any provision is ruled invalid or unconstitutional, it is

important that the entire Act not be affected. This can only be achieved by inserting a clause at the end of the Act stating that each provision of the Act is severable from all other provisions and that the declaration that one section is invalid or unconstitutional will not affect the constitutionality or enforceability of any other section.

If any section in this Act or any part of any section thereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of any section or part thereof.

O. Effective Date

In any law regulating a profession there needs to be a specific date establishing when the law shall become effective. Thus, the final paragraph states:

This Act shall become effective upon the date it is signed by the Governor or on the date it otherwise becomes effective by operation of law.

REFERENCES

- APA Committee on Legislation. (1955). Joint report of the APA and CSPA (Conference of State Psychological Associations). *American Psychologist*, 10, 727-756.
- APA Committee on Legislation. (1967). A model for state legislation affecting the practice of psychology 1967: Report of the APA Committee on Legislation. *American Psychologist*, 22, 1095-1103.

Good morning Chairman Haas and Members of the Committee,
My name is Kimberly McDowall-Long. I am a resident of District 14, and a doctoral candidate in Industrial/Organizational Psychology through the regionally accredited Harold Abel School of Psychology at Capella University located in Minneapolis, MN. I am here today to ask each member of this committee to support HB 1439, allowing industrial/organizational psychologists to be exempted from licensure under NDCC 43-32.

What is Industrial Organizational Psychology?

Industrial-organizational psychologists help businesses and other organizations to improve their organizations. They develop strategies to improve employee relations, build strong teams, and reduce organizational conflict. Industrial/organizational psychology is an important facet of good human resource management. Industrial organizational psychologists work on issues related to compensation, staffing, employee retention, workforce development, and organizational change. They offer services that are often indistinguishable from those offered by traditional business consultants. Industrial/organizational psychology is an integral part of management and business. Industrial/organizational psychologists generally do not have training in mental illness, psychopathology, or the provision of psychotherapy. In fact, psychology is a divided profession.

Psychology is a Divided Profession

According to the scholarly journal, *Professional Psychology: Research and Practice*, the profession of psychology is composed of four distinct specialties. Three of those specialties are clinical; that is, they deal with helping individuals to cope with the stresses of daily life, or through the diagnosis and treatment of mental illness. These three specialties are clinical psychology, counseling psychology, and school psychology.

However, there is one other general practice specialty - one that does not provide therapy to individuals. That specialty is industrial/organizational psychology. The training and preparation of industrial/organizational psychologists is different from that of the other

three specialties. All psychologists share a core of study relating to basic psychology such as the biological basis of behavior, the psychology of learning, social psychology, developmental psychology, and testing and assessment. However, while clinical psychologists then go off to study psychopathology (mental illness), psychotherapy, and complete clinical internships, industrial/organizational psychologists branch off in the latter stages of their doctoral work to study compensation and benefits, workplace safety, employee motivation, and organizational behavior. Industrial/organizational psychologists do not complete field internships.

Industrial/organizational psychologists do not deliver services intended to benefit individuals or groups of individuals, nor do they offer the diagnosis of mental illness or psychotherapy. Instead, the beneficiaries of their services are organizations. This distinct specialty has its own separate division within the American Psychological Association called the Society for Industrial Organizational Psychology.

Because there are many fewer industrial/organizational psychologists than clinical psychologists, certain problems have evolved pertaining to psychologist licensure statutes. Here in North Dakota, the statutes pertaining to psychologist licensure address the training and preparation of clinical, but not industrial/organizational psychologists. For example, in North Dakota, psychologists are required to complete two thousand hours of supervised internship and an additional two thousand hours of supervised postdoctoral experience. However, as I noted earlier, the training and preparation of industrial/organizational psychologists does not include pre-doctoral field internships or residencies.

According to the Society for Industrial Organizational Psychology, *"Accreditation requirements, internship requirements, and models for supervision that do not provide a means by which I-O psychologists may reasonably meet the requirements of licensure fail to recognize the diversity of models for training and practice in psychology . . . At least two states, Illinois and Colorado, specifically exempt I-O psychologists from all licensure requirements. We encourage state and provincial licensing boards to consider this*

option if their licensing requirements make it impossible for an I-O psychologist to obtain a license in their jurisdiction."

In addition, the American Psychological Association's own Model Act for State Licensure of Psychologists contains language that exempts industrial/organizational psychologists. The APA document states *"Nothing in this Act shall be construed to prevent the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions, provided that such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered."* A copy of this document is included with my written testimony.

North Dakota's statutes do not accommodate the unique training and preparation of industrial/organizational psychologists. In fact, as of July 2004 North Dakota had less than 200 licensed psychologists. Therefore, rather than rewrite the North Dakota Century Code, Section 66-02 pertaining to psychologists, HB 1439 has been introduced to exempt industrial/organizational psychologists from licensure, in accordance with the recommendations of the Society for Industrial Organizational Psychologists and the American Psychological Association.

The language of the exemption was based on the Colorado and Illinois statutes as well as the American Psychological Association's Model Act. Copies of the Colorado and Illinois exemptions are also included for your convenience with my written testimony. HB 1439 allows qualified persons who hold an earned doctorate degree in organizational psychology from a regionally accredited university to practice as industrial/organizational psychologists in North Dakota so long as they do not pose a threat to public health. It also allows persons holding earned doctorate degrees in organizational psychology from regionally accredited universities to call themselves "organizational psychologists," something that is prohibited under North Dakota's current statutes.

Risks to Public Health

Obviously, the greatest concern for all of us, when considering exempting some group from licensure is the potential risk to public health. So, let's consider the protections for public health.

- ♦ Psychologists who deliver services to individuals are covered by NDCC 43-32 and 66-02.
- ♦ Under HB 1439, industrial/organizational psychologists who provide services to individuals would still be required to obtain licensure.
- ♦ Industrial/organizational psychologists who deliver services to organizations, rather than individuals, do not pose a risk to public health.
- ♦ Why? Because industrial/organizational psychologists perform work that is often indistinguishable from that performed by human resource managers and other business consultants.

Summary

Mr. Chairman and Members of the committee, I ask for your support of HB 1439. It is possible today, thanks to the explosion of communications technology, for your constituents in Mott, Kenmare, Hazen, or Bismarck, to stay here in North Dakota even as they pursue masters and doctoral degrees from fully accredited universities across the United States. Much of my own secondary doctoral research has been conducted through Johns Hopkins University, some of which was recently published in the academic journal *Human Resource Development International*, even as I have been able to work full-time here in Bismarck. In order to retain young professionals, it is essential that we make reasonable accommodations in those laws that may prompt others like me to consider leaving the state upon completion of our graduate educations.

I ask for your support as a citizen whose sole wish is to stay here in North Dakota upon completion of my doctorate degree. I ask for nothing more than the opportunity to work hard while playing by the rules. Under the current licensure standards, I will never have the privilege of calling myself an organizational psychologist in North Dakota even after

I have spent more than 12 years in college and spent more than \$100,000 on my education.

The amendment proposed under HB 1439 provides strong protections for public health. It does not provide a cloak under which an unqualified psychologist may provide psychological diagnosis or therapy to members of the public. The language proposed in HB 1439 provides stronger protections for public health than either the Colorado or Illinois statutes, and even stronger protections than those advocated by the American Psychological Association. Please, support HB 1439.

Thank you for your consideration.

Recommendations for Further Reading

- ♦ American Psychological Association. (1987). Model act for licensure of psychologists. *American Psychologist*, 42(7), 696-703.
- ♦ Drum, D. J., & Blom, B. E. (2001). The dynamics of specialization in professional psychology [Electronic version]. *Professional Psychology: Research and Practice*, 32(5), 513-521.
- ♦ Olvey, C. D., Hogg, A., & Counts, W. (2002). Licensure requirements: have we raised the bar too far? [Electronic version]. *Professional Psychology, Research and Practice*, 33(3), 3323-3329.
- ♦ Society of Industrial and Organizational Psychology [SIOP]. (2002). *Considerations for evaluating I-O psychologists for licensing*. Retrieved December 3, 2004, from <http://www.siop.org/Licensure/EvaluatingPsychologists/text.htm#Profession%20of%20I-O>
- ♦ Society of Industrial and Organizational Psychology [SIOP]. (2002). *Abridged petition for the recognition of Industrial and Organizational Psychology as a specialty in professional psychology by the Committee on the Recognition of Specialties and Proficiencies in Professional Psychology*. Retrieved December 3, 2004, from <http://www.siop.org/history/crsppp.htm>