

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1439
(Representatives Wrangham, DeKrey, Weisz)
(Senators Klein, J. Lee, Wardner)

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~~ 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,~~ 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 ~~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", or "industrial-organizational psychologist" 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.

4. 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 a~~ 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~~ 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 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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1439.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State