

Introduced by

Senators J. Lee, Anderson

Representative Beadle

1 A BILL for an Act to create and enact chapter 43-64 of the North Dakota Century Code, relating
2 to the licensure and regulation of behavior analyst professionals; to amend and reenact
3 sections 43-32-01, 43-32-02, 43-32-08, 43-32-08.1, 43-32-08.2, 43-32-09, 43-32-12, 43-32-13,
4 43-32-14, 43-32-16, 43-32-17, 43-32-19.1, 43-32-20, 43-32-27, 43-32-27.1, 43-32-30, 43-57-01,
5 43-57-03, and 43-57-06, subsection 2 of section 43-57-07, and section 43-57-11, relating to the
6 regulation of applied behavioral analysts of psychologist examiners and to the board of
7 integrative health care; to provide a penalty; and to provide an effective date.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

11 **43-32-01. Definitions.**

- 12 1. ~~"Applied behavior analyst" means an individual licensed under this chapter as an~~
13 ~~applied behavior analyst. The term does not include a registered applied behavior~~
14 ~~analyst.~~
- 15 2. "Board" means the North Dakota state board of psychologist examiners.
- 16 ~~3.2.~~ "Industrial-organizational psychologist" means an individual who is licensed under this
17 chapter to engage in the practice of industrial-organizational psychology.
- 18 ~~4.3.~~ "Industrial-organizational psychology" means the provision of psychological research
19 services or consultation services to a group or an organization. The term does not
20 include the delivery or supervision of services to individuals who are themselves,
21 rather than the group or organization, the intended beneficiaries of the services,
22 regardless of the source or extent of payment for services rendered.
- 23 ~~5.4.~~ "Industrial-organizational psychology resident" means an individual who has met the
24 requirement of subdivision b of subsection 2 of section 43-32-20, is involved in

1 supervised employment in industrial-organizational psychology, and has registered
2 with the board.

3 ~~6.5.~~ "Licensee" means an industrial-organizational psychologist, ~~an applied behavior-~~
4 ~~analyst,~~ or a psychologist.

5 7. "Practice of applied behavior analysis":

6 a. ~~Means the application of the principles, methods, and procedures of the-~~
7 ~~experimental analysis of behavior and applied behavior analysis, including-~~
8 ~~principles of operant and respondent learning. The term includes applications of-~~
9 ~~those principles, methods, and procedures to:~~

10 (1) ~~Design, supervise, evaluate, and modify treatment programs to change the-~~
11 ~~behavior of individuals diagnosed with an autism spectrum disorder;~~

12 (2) ~~Design, supervise, evaluate, and modify treatment programs to change the-~~
13 ~~behavior of individuals;~~

14 (3) ~~Design, supervise, evaluate, and modify treatment programs to change the-~~
15 ~~behavior of groups; and~~

16 (4) ~~Consult with individuals and organizations.~~

17 b. ~~The term does not include diagnosis, counseling, psychological testing,-~~
18 ~~personality assessment, intellectual assessment, neuropsychological-~~
19 ~~assessment, psychotherapy, cognitive therapy, sex therapy, family therapy,-~~
20 ~~coordination of care, psychoanalysis, hypnotherapy, and long term counseling as-~~
21 ~~treatment modalities.~~

22 ~~8.6.~~ "Practice of psychology" means the observation, description, evaluation, interpretation,
23 or modification of human behavior by the application of psychological principles,
24 methods, and procedures for the purpose of preventing or eliminating symptomatic,
25 maladaptive, or undesired behavior and enhancing interpersonal relationships, work
26 and life adjustment, personal effectiveness, behavioral health, and mental health. The
27 term includes psychological testing and the evaluation or assessment of personal
28 characteristics, such as intelligence, personality, abilities, interests, aptitudes, and
29 neuropsychological functioning; counseling, psychotherapy, biofeedback, behavior
30 analysis and therapy, clinical applications of hypnosis, and other therapeutic
31 techniques based on psychological principles; diagnosis and treatment of mental and

1 emotional disorder or disability, compulsive disorders, disorders of habit or conduct as
2 well as of the psychological aspects of physical illness, accident, injury, or disability;
3 and psychoeducational evaluation, therapy, remediation, and consultation. The term
4 includes providing psychological services to individuals, families, groups,
5 organizations, institutions, and the public regardless of whether payment is received
6 for services rendered. The term includes supervising others who are engaged in the
7 practice of psychology.

8 ~~9.7.~~ "Psychologist" means an individual who is licensed under this chapter in the practice
9 of psychology.

10 ~~10.8.~~ "Psychology resident" means an individual who is registered by the board and is
11 actively engaged in supervised practice.

12 ~~11.~~ "~~Registered applied behavior analyst~~" or "~~registrant~~" means an individual who is
13 registered under this chapter as a registered applied behavior analyst and is
14 supervised by a psychologist or applied behavior analyst. The term does not include
15 an applied behavior analyst.

16 ~~12.9.~~ "School or college" means any university or other institution of higher learning which is
17 accredited by a regional accrediting association, offering a full-time graduate course of
18 study in industrial-organizational psychology, or psychology, ~~or applied behavior~~
19 ~~analysis~~, as appropriate.

20 **SECTION 2. AMENDMENT.** Section 43-32-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-32-02. State board of psychologist examiners - How appointed - Qualifications.**

23 The governor shall appoint a state board of psychologist examiners consisting of seven
24 members, all of whom are residents of the state. One board member must be designated a
25 public member who is a resident of this state, is at least twenty-one years of age, and is not
26 affiliated with any group or profession that provides or regulates health care in any form. Of the
27 remaining six board members, at least one member must be engaged primarily in providing
28 service in psychology ~~or applied behavior analysis~~, and at least one member must be engaged
29 primarily in teaching, training, or research in psychology ~~or applied behavior analysis~~. Except
30 the public member, each member must be licensed under this chapter for at least five years.

1 **SECTION 3. AMENDMENT.** Section 43-32-08 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-32-08. Rules.**

4 The board may adopt rules as necessary to enable the board to carry into effect the
5 provisions of this chapter. The rules may include a code of ethics for licensees ~~and registrants~~.
6 The board shall adopt rules defining what programs of study are substantially psychological in
7 nature; and what educational programs are acceptable for the licensing of psychologists ~~and~~
8 ~~applied behavior analysts and for registering registered applied behavior analysts; and what~~
9 ~~educational programs are acceptable for the licensing of industrial-organizational psychologists.~~

10 **SECTION 4. AMENDMENT.** Section 43-32-08.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-32-08.1. Continuing education requirements.**

13 The board shall adopt rules establishing requirements for the continuing education of all
14 licensees, psychology residents, ~~registrants~~, and industrial-organizational psychology residents.
15 The board may refuse to renew, suspend, revoke, or place on probationary status any license
16 ~~or registration~~ issued under this chapter if the licensee ~~or registrant~~ fails to meet applicable
17 continuing education requirements. Sponsors of continuing education courses, classes, or
18 activities may be charged a reasonable fee determined by the board.

19 **SECTION 5. AMENDMENT.** Section 43-32-08.2 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-32-08.2. Continuing education requirements - Renewal.**

22 Absent a showing of good cause, the board may not renew a license ~~or registration~~ issued
23 under this chapter without proof the continuing education requirements under section
24 43-32-08.1 have been met. An individual whose license ~~or registration~~ is not renewed because
25 of failure to meet the continuing education requirements must be reinstated and the license ~~or~~
26 ~~registration~~ renewed if, within one year from the date of nonrenewal, the individual
27 demonstrates to the secretary of the board the continuing education requirements have been
28 satisfied, pays the renewal fee, and pays a late fee to be determined by rule of the board.

29 **SECTION 6. AMENDMENT.** Section 43-32-09 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-32-09. Examination of qualifications of applicants.**

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

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

6 **43-32-12. Application and fee for licensure and registration.**

7 The board shall adopt rules establishing the amount of the application fee for licensure and
8 registration. A fee is not refundable.

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

11 **43-32-13. Annual license and registration fee.**

12 Annually, the board shall mail or transmit by electronic mail a renewal notice and application
13 to each licensee and registrant at the address or electronic mail address on file with the board.
14 Before November fifteenth of each year, every licensee and registrant shall apply for renewal on
15 a renewal application form provided by the board and pay to the secretary of the board an
16 annual fee determined by the board by rule. Upon confirmation by the board the renewal
17 application is complete, the criteria for renewal have been met, and the secretary of the board
18 has received payment of the annual fee, the secretary shall issue the licensee or registrant a
19 certificate of annual renewal, which commences on January first. An individual may not hold out
20 as an industrial-organizational psychologist, an applied behavior analyst, a registered applied
21 behavior analyst, or a psychologist until the annual fee is paid. The board may deny renewal of
22 the license or registration of an individual who violates this section. Annually, the board shall
23 mail or electronically mail a renewal notice to each licensee and registrant at the address or
24 electronic mail address on file with the board.

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

27 **43-32-14. Payment of delinquent annual fee - Reinstatement.**

28 If an individual's license or registration issued under this chapter expires for failure to pay
29 the annual fee, the board shall reinstate that individual and renew the license or registration if,
30 within one year from the date of expiration, the individual pays to the secretary of the board the
31 amount of the annual fees in default and a late fee in the amount established by the board by

1 rule and demonstrates all continuing education requirements have been met or the board has
2 granted an extension of the period in which to meet the continuing education requirements.

3 **SECTION 10. AMENDMENT.** Section 43-32-16 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-32-16. Board to keep records.**

6 1. The board shall keep a record of its proceedings and a register of all applicants for
7 licensing ~~or registration~~ which must show:

8 a. The name, date of birth, and residence of each applicant.

9 b. The date of each applicant's application.

10 c. The place of business of each applicant.

11 d. A summary of the educational and other qualifications of each applicant.

12 e. Whether an examination was required of an applicant.

13 f. Whether a license ~~or registration~~ was granted to an applicant.

14 g. The date of the action of the board.

15 h. Any information the board determines necessary or advisable in aid of the
16 requirements of this subsection.

17 2. Except as otherwise provided by law, the records of the board are public records and
18 evidence of the proceedings of the board, and a transcript of board proceedings, duly
19 certified by the secretary of the board is admissible in evidence with the same effect
20 as if the original were produced.

21 **SECTION 11. AMENDMENT.** Section 43-32-17 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-32-17. License required for practice - Titles.**

24 1. Except as otherwise provided under this chapter, a person may not engage in the
25 practice of psychology unless that person is licensed as a psychologist or is registered
26 as a psychology resident under this chapter. Except as otherwise provided by this
27 chapter, a person may not engage in the practice of industrial-organizational
28 psychology unless that person is licensed as a psychologist or
29 industrial-organizational psychologist or is registered as a psychology resident or
30 industrial-organizational psychology resident under this chapter. ~~Except as otherwise~~
31 ~~provided under this chapter, a person may not engage in the practice of applied~~

- 1 behavior analysis unless that person is a licensee or is registered and supervised as
2 an applied behavior analyst as provided under this chapter.
- 3 2. A person may not use the title "psychologist" or similar title unless that person is
4 licensed as a psychologist. A person may not use the titles "industrial psychologist",
5 "organizational psychologist", or "industrial-organizational psychologist" unless that
6 person is licensed as a psychologist or industrial-organizational psychologist. A person
7 may not use the title "licensed applied behavior analyst" or similar title unless that
8 person is an applied behavior analyst. A person may not use the title "registered-
9 applied behavioral analyst" or similar title unless that person is registered and
10 supervised as a registered applied behavior analyst.
- 11 3. A person may not use the title "psychology resident" or similar title unless that person
12 is registered as a psychology resident. A person may not use the titles "industrial
13 psychology resident", "organizational psychology resident", or
14 "industrial-organizational psychology resident" unless that person is registered as a
15 psychology resident or industrial-organizational psychology resident.

16 **SECTION 12. AMENDMENT.** Section 43-32-19.1 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-32-19.1. Expedited licensure - Licensing or registering applicants licensed or**
19 **registered in other jurisdictions.**

- 20 1. The board may grant a license or registration to an applicant who is an individual
21 licensed, certified, or registered in another jurisdiction and who files a completed
22 application on a form and in a manner the board prescribed, submits the required fee,
23 and submits documentation:
- 24 a. Confirming graduation from an accredited program in the degree of licensure or
25 registration for which the individual is applying in this state;
- 26 b. Confirming completion of a national examination required by the board related to
27 competence in psychology or applied behavior analysis;
- 28 c. Identifying all professional licenses, certifications, or registrations previously
29 obtained by the applicant in any jurisdiction;

- 1 d. Explaining any professional or personal conduct that reasonably may be
2 interpreted as indicating an inability to adhere to this chapter, including the code
3 of ethical conduct adopted by the board; and
- 4 e. Providing the board with a release by which the board may obtain from the
5 applicant's current jurisdiction, confirmation of the educational degree the
6 applicant's licensure or registration required, documentation of any disciplinary
7 action related to the applicant's license or registration, and an explanation of all
8 levels in the applicant's profession the current jurisdiction licenses or registers.
- 9 2. As a condition to qualify for licensure ~~or registration~~ under subsection 1, the board
10 may require the applicant pass an examination on the ethics, laws, and rules
11 regulating the practice of psychology; or industrial-organizational psychology; ~~or~~
12 ~~applied behavior analysis~~, as appropriate to the licensure ~~or registration~~ sought by the
13 applicant.
- 14 3. Notwithstanding any contrary provision of this chapter, the board may issue a license
15 ~~or registration~~ as authorized under chapter 43-51.
- 16 4. The board may grant a provisional license ~~or registration~~ to an expedited licensure
17 applicant while the application is pending. ~~The board may grant a provisional~~
18 ~~registration to an individual who is applying for registration as an applied behavior~~
19 ~~analyst if the individual is certified by a professional organization that is identified by~~
20 ~~the board by rule.~~ The board may deny or place restrictions on a provisional license ~~or~~
21 ~~registration~~ under this subsection if in another jurisdiction, within the previous five
22 years, the applicant had a disciplinary action against the applicant's license or
23 registration.
- 24 5. Except as otherwise provided under this chapter, and in accordance with rules
25 adopted by the board, the board may issue a limited practice certificate to an applicant
26 who is licensed or registered in another jurisdiction to practice psychology; or
27 industrial-organizational psychology; ~~or applied behavior analysis~~. A limited practice
28 certificate issued under this subsection authorizes the practice of psychology; or
29 industrial-organizational psychology; ~~or applied behavior analysis~~ in this state for no
30 more than thirty days in a calendar year.

1 **SECTION 13. AMENDMENT.** Section 43-32-20 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-32-20. Licensing - Written and oral examination - Qualifications of applicants.**

4 The board may issue a license ~~or registration~~ to each applicant who files a completed
5 application upon a form and in a manner the board prescribes, submits the required fee, and
6 meets the requirements of subsection 1; or 2; ~~or 3~~.

- 7 1. An applicant for licensure as a psychologist shall demonstrate all of the following:
- 8 a. The applicant will adhere to the code of ethical conduct adopted by the board by
9 rule.
- 10 b. The applicant has received, from a school or college, a doctorate degree in a
11 program that is accredited as a doctoral program in psychology by an accrediting
12 body approved by the board by rule.
- 13 c. The applicant has passed the examinations, written or oral, or both, as the board
14 determines necessary.
- 15 d. The applicant has completed at least two full years of supervised professional
16 experience, one year of which must be an internship program, and one year of
17 which may be postdoctoral. Both years of experience must comply with the
18 board's rules.
- 19 2. An applicant for licensure as an industrial-organizational psychologist shall
20 demonstrate all of the following:
- 21 a. The applicant will adhere to the code of ethical conduct adopted by the board by
22 rule.
- 23 b. The applicant has received, from a school or college, a doctorate degree in a
24 program of studies accredited by an accrediting body approved by the board by
25 rule.
- 26 c. The applicant has passed the examinations, written or oral, or both, as the board
27 determines necessary.
- 28 d. The applicant has completed the professional experience requirements
29 established by the board. The requirements may not exceed the professional
30 experience requirements for psychologists. If the professional experience
31 requirements include a supervised experience requirement:

- 1 (1) The board must allow an applicant to submit to the board a personalized
2 plan for supervised experience which may include distance-supervision by a
3 qualified industrial-organizational psychologist.
- 4 (2) The board may adopt rules to establish who is qualified to perform
5 supervision, supervision requirements, and reporting.
- 6 3. ~~An applicant for licensure as an applied behavior analyst or registration as a registered~~
7 ~~applied behavior analyst shall:~~
- 8 a. ~~Submit written documentation confirming the applicant will adhere to the code of~~
9 ~~ethical conduct adopted by the board by rule.~~
- 10 b. ~~Demonstrate the applicant meets board-approved education requirements~~
11 ~~adopted by the board by rule.~~
- 12 c. ~~Demonstrate the applicant passed examinations demonstrating professional~~
13 ~~competence adopted by the board by rule.~~
- 14 d. ~~Provide documentation indicating the applicant has established supervision~~
15 ~~requirements as determined by the board by rule. The board's rule must allow for~~
16 ~~supervision of board-certified behavioral analysts by professionals with equivalent~~
17 ~~or greater training.~~

18 **SECTION 14. AMENDMENT.** Section 43-32-27 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **43-32-27. Denial - Revocation or suspension of license ~~or registration~~ - Grounds.**

- 21 1. The board, after notice, hearing, and an affirmative vote of at least a majority of board
22 members, may withhold, deny, revoke, or suspend any license ~~or registration~~ issued or
23 applied for under this chapter and may otherwise discipline a licensee, ~~a registrant~~, or
24 an applicant upon proof the applicant, ~~registrant~~, or licensee:
- 25 a. Has been convicted of an offense determined by the board to have a direct
26 bearing upon an individual's ability to serve the public in the practice of
27 psychology ~~or applied behavior analysis~~, or if the board finds, after the conviction
28 of any offense, that an individual is not sufficiently rehabilitated under section
29 12.1-33-02.1.
- 30 b. Is unable to practice psychology ~~or applied behavior analysis~~ with reasonable
31 skill and safety to clients or patients by reason of illness, inebriation, misuse of

- 1 drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any
2 mental or physical condition.
- 3 c. Has impersonated another individual holding a license ~~or registration~~ issued
4 under this chapter or allowed another person to use the licensee's license ~~or~~
5 ~~registration~~.
- 6 d. Has used fraud or deception in applying for a license ~~or registration~~ or in taking
7 an examination under this chapter.
- 8 e. Has allowed the licensee's ~~or registrant's~~ name or license ~~or registration~~ issued
9 under this chapter to be used in connection with any person who performs
10 psychological ~~or applied behavior analysis~~ services outside of the area of that
11 person's training, experience, or competence.
- 12 f. Is legally adjudicated insane or mentally incompetent. The record of the
13 adjudication is conclusive evidence of that fact.
- 14 g. Has engaged in any form of unethical conduct as defined in the code of ethical
15 conduct adopted by the board by rule.
- 16 h. Has become grossly negligent in the practice of psychology ~~or applied behavior~~
17 ~~analysis~~.
- 18 i. Has willfully or negligently violated this chapter.
- 19 j. Has engaged in an act in violation of rules adopted by the board.
- 20 k. Has had a license ~~or registration~~ revoked or suspended or was disciplined in
21 another jurisdiction.
- 22 2. The board shall state in writing the board's reason for denying a license ~~or registration~~.
- 23 3. The board may assess costs incurred by the board related to investigations and
24 disciplinary actions. By rule, the board may set fees or fines, not to exceed five
25 hundred dollars, for minor infractions of this chapter.
- 26 4. An individual whose license ~~or registration~~ has been revoked under this section may
27 not reapply for licensure ~~or registration~~ for at least two years after the date of
28 revocation.
- 29 5. Other than the term "in good standing", by rule, the board shall define terms related to
30 license status, such as "revoked", "suspended", "inactive", and "probationary".

1 **SECTION 15. AMENDMENT.** Section 43-32-27.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-32-27.1. Complaints - Investigations.**

- 4 1. A person aggrieved by the actions of a licensee, ~~registrant~~, or psychology resident
5 may file a written statement with the board citing the specific allegations of
6 misconduct. The board shall notify the licensee, ~~registrant~~, or psychology resident of
7 the allegation and request a written response. The board may establish procedural
8 exceptions for processing multiple allegations from the same person.
- 9 2. The board shall determine if the information in an allegation warrants investigation as
10 a complaint, without requiring the source of the information to be made a matter of
11 public record, if the board concludes that good cause exists for preserving the
12 confidentiality of the source.
- 13 3. A licensee, ~~registrant~~, or psychology resident who is the subject of an investigation by
14 the board shall cooperate fully with the investigation. Cooperation includes responding
15 fully and promptly to any reasonable question raised by or on behalf of the board
16 relating to the subject of the investigation and providing copies of patient or client
17 records if reasonably requested by the board and accompanied by the appropriate
18 release.
- 19 4. In order to pursue an investigation, the board may subpoena and examine witnesses
20 and records, including patient and client records, and may copy, photograph, or take
21 samples of the records. The board may require the licensee, ~~registrant~~, or psychology
22 resident to give statements under oath, to submit to a physical or psychological
23 examination, or both, by a physician or other qualified evaluation professional selected
24 by the board, if requiring an examination is in the best interest of the public. The
25 patient and client records released to the board are not public records. The board may
26 adopt rules to assign, define duties, and compensate an investigator to assist the
27 board to process a complaint.
- 28 5. Unless a patient or client release is on file allowing the release of information at the
29 public hearing, patient and client records acquired by the board in the board's
30 investigation are confidential and closed to the public. All board meetings at which
31 patient or client testimony or records are taken or reviewed are confidential and closed

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

4 **SECTION 16. AMENDMENT.** Section 43-32-30 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-32-30. Persons exempt from this chapter.**

7 This chapter does not apply to:

- 8 1. A student or intern pursuing a course of study in psychology; or
9 industrial-organizational psychology; ~~or applied behavior analysis~~ at a school or
10 college, if the activities and services are a part of the individual's supervised course of
11 study and are under the supervision of a licensed psychologist who meets the required
12 supervision and continuing education requirements and demonstrates competency in
13 the area of the student's or intern's practice; or industrial-organizational psychologist;
14 ~~or applied behavior analyst~~. The student or intern may not use the title "psychologist";
15 or "industrial-organizational psychologist"; ~~"licensed behavior analyst"; or "registered-~~
16 ~~applied behavior analyst"~~. The student or intern status and the supervisor must be
17 clearly stated.
- 18 2. A lecturer, from any school or college, who uses an academic or research title when
19 lecturing to institutions or organizations. However, the lecturer may not engage in the
20 practice of psychology; ~~applied behavior analysis~~; or industrial-organizational
21 psychology unless the lecturer is licensed or registered under this chapter.
- 22 3. An individual employed by a public school if that individual's activities and services are
23 restricted to the practice of psychology in the district or service unit of employment.
24 This exemption applies only if the individual has received a master's degree in school
25 psychology from an accredited graduate training program. Standards must be
26 established by mutual consent of the board and the education standards and practices
27 board.
- 28 4. ~~A person~~An individual certified, licensed, or registered in this state in another health
29 care profession, or as a member of the clergy functioning in a ministerial capacity,
30 whose scope of practice is consistent with the accepted standards of that
31 ~~person's~~individual's profession. ~~A person~~An individual claiming an exemption under

1 this subsection may not represent to be rendering psychological or applied behavior-
2 analysis services.

3 5. ~~A person~~An individual employed by an agency, a nonprofit corporation, or an institution
4 if that ~~person~~individual is currently exempt from licensure. ~~A person~~An individual
5 exempt under this subsection continues to be exempt if the ~~person~~individual continues
6 employment in the same position with the agency, nonprofit corporation, or institution
7 that applied for and received the exemption.

8 6. ~~An individual providing applied behavior analysis services to an individual in a public-~~
9 ~~school setting.~~

10 7. ~~An individual who is implementing applied behavior analysis services to an immediate-~~
11 ~~family member or as a paid or volunteer caregiver implementing procedures-~~
12 ~~established by the family or by the individual served in any setting, if the individual or-~~
13 ~~caregiver does not represent as a registrant or an applied behavior analyst.~~

14 **SECTION 17. AMENDMENT.** Section 43-57-01 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-57-01. Definitions.**

17 As used in this chapter, unless the context otherwise requires:

- 18 1. "Board" means the state board of integrative health care.
19 2. "Licensee" means an individual licensed by the board under this chapter and under
20 chapter 43-58, 43-59, ~~or 43-61,~~ or 43-64.

21 **SECTION 18. AMENDMENT.** Section 43-57-03 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-57-03. Powers and duties of board.**

- 24 1. The board shall adopt rules:
25 a. To administer and enforce this chapter and chapters 43-58, 43-59, ~~and 43-61,~~
26 and 43-64;
27 b. That specify the scope of practice, which must be consistent with the required
28 education for each profession regulated by the board;
29 c. To establish any exemptions from regulations;
30 d. That endorse equivalent licensure examinations of another state or foreign
31 country and which may include licensure by reciprocity;

- 1 d.e. That establish educational standards for each profession regulated by the board
2 as appropriate; and
- 3 e.f. That set fees for licensure, which may include:
- 4 (1) Application fee;
- 5 (2) License fee;
- 6 (3) Renewal fee;
- 7 (4) Late fee;
- 8 (5) Administrative fees; and
- 9 (6) Continuing education fees.
- 10 2. The board shall produce an annual list of the names and level of licensure of all
11 individuals licensed by the board and make the list available upon request.
- 12 3. The board may employ staff and provide for staff compensation.
- 13 4. The board shall receive all moneys collected under this chapter, ~~chapter~~ and chapters
14 43-58, 43-59, ~~and 43-61, and 43-64~~ and shall deposit and disburse all fees and
15 moneys collected in accordance with section 54-44-12.
- 16 5. The board may establish continuing education requirements for license renewal.
- 17 6. The board may adopt a code of ethics for each profession regulated by the board.
- 18 7. The board may adopt rules allowing students to practice under licensed supervision.

19 **SECTION 19. AMENDMENT.** Section 43-57-06 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-57-06. Issuance of license.**

22 If the board determines that an applicant possesses the qualifications required under this
23 chapter and under chapter 43-58, 43-59, ~~or 43-61, or 43-64,~~ the board shall issue a license to
24 the applicant.

25 **SECTION 20. AMENDMENT.** Subsection 2 of section 43-57-07 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 2. A license issued under chapter 43-58 or 43-59 expires on December thirty-first of
28 every odd-numbered year. A license issued under chapter 43-61 or 43-64 expires on
29 December thirty-first of every even-numbered year.

30 **SECTION 21. AMENDMENT.** Section 43-57-11 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **43-57-11. Enforcement - Penalty.**

2 A person that violates this chapter or chapter 43-58, 43-59, or 43-61, or 43-64 is guilty of a
3 class B misdemeanor. In addition to the criminal penalties provided under this section, the civil
4 remedy of injunction is available to restrain and enjoin any violation of this chapter or chapter
5 43-58, 43-59, or 43-61, or 43-64 without proof of actual damages sustained by any person.

6 **SECTION 22.** Chapter 43-64 of the North Dakota Century Code is created and enacted as
7 follows:

8 **43-64-01. Definitions.**

9 For purposes of this chapter, unless the context otherwise requires:

- 10 1. "Board" means the state board of integrative health care created under chapter 43-57.
- 11 2. "Licensed assistant behavior analyst" means an individual who is licensed under this
12 chapter as a licensed assistant behavior analyst and is supervised by a licensed
13 behavior analyst.
- 14 3. "Licensed behavior analyst" means an individual licensed under this chapter as a
15 licensed behavior analyst.
- 16 4. "Practice of applied behavior analysis" means the design, implementation, and
17 evaluation of instructional and environmental modifications to produce socially
18 significant improvements in human behavior. The term includes the empirical
19 identification of functional relations between behavior and environmental factors. The
20 term does not include the diagnosis of disorders, psychological testing, psychotherapy,
21 cognitive therapy, psychoanalysis, and counseling.

22 **43-64-02. License required - Title restrictions.**

- 23 1. Effective January 1, 2020, an individual may not practice applied behavior analysis
24 without a current license issued by the board under this chapter.
- 25 2. A licensed behavior analyst may use the title "licensed behavior analyst." A licensed
26 assistant behavior analyst may use the title "licensed assistant behavior analyst."
27 Effective January 1, 2020, an individual who uses these terms as identification without
28 having received a license as required under this chapter is engaging in the practice of
29 applied behavior analysis without a license.

1 **43-64-03. Qualifications for licensure.**

2 To obtain a license to practice applied behavior analysis in this state, an applicant shall
3 submit an application to the board. The application must be upon the form adopted by the board
4 and must be made in the manner prescribed by the board.

5 **43-64-04. Application for licensure.**

6 1. An applicant for licensure shall file an application on forms provided by the board
7 showing to the board's satisfaction the applicant is of good moral character and has
8 satisfied the requirements of this chapter and chapter 43-57, including:

9 a. Successful completion of education, examination, and experience requirements
10 established by the board, such as certification from the behavior analyst

11 certification board or a certifying entity accredited by the national commission for
12 certifying entities or the American national standards institute;

13 b. Physical, mental, and professional capability for the practice of applied behavior
14 analysis in a manner acceptable to the board; and

15 c. A history free of any finding by the board, any other state licensure board, or any
16 court of competent jurisdiction of the commission of any act that would constitute
17 grounds for disciplinary action under this chapter and chapter 43-57. The board
18 may modify this restriction for cause.

19 2. The application must be accompanied by the board-established license fees and
20 application fees and by the documents, affidavits, and certificates necessary to
21 establish the applicant possesses the necessary qualifications.

22 3. The board shall establish standards for licensed behavior analysts supervising
23 licensed assistant behavior analysts.

24 **43-64-05. Initial applications - Grandfather provision.**

25 Notwithstanding the education, experience, and examination requirements for licensure
26 under this chapter, if on December 31, 2019, an applicant held a valid license or registration
27 issued by the state board of psychologist examiners under chapter 43-32, the applicant is
28 deemed to have met the education, experience, and examination requirements for licensure.

29 **SECTION 23. EFFECTIVE DATE.** Sections 1 through 16 of this Act become effective on
30 January 1, 2020.