

Sixty-sixth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2236**

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 of the North  
6 Dakota Century Code, relating to relating to the regulation of applied behavioral analysts of  
7 psychologist examiners and to the board of integrative health care; to provide a penalty; and to  
8 provide an effective date.

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

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

12 **43-32-01. Definitions.**

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

- 1     ~~5.4.~~ "Industrial-organizational psychology resident" means an individual who has met the  
2           requirement of subdivision b of subsection 2 of section 43-32-20, is involved in  
3           supervised employment in industrial-organizational psychology, and has registered  
4           with the board.
- 5     ~~6.5.~~ "Licensee" means an industrial-organizational psychologist, ~~an applied behavior-~~  
6           ~~analyst,~~ or a psychologist.
- 7     ~~7.~~ "Practice of applied behavior analysis":
- 8           a.    ~~Means the application of the principles, methods, and procedures of the-~~  
9           ~~experimental analysis of behavior and applied behavior analysis, including-~~  
10           ~~principles of operant and respondent learning. The term includes applications of-~~  
11           ~~these principles, methods, and procedures to:~~
- 12           (1)   ~~Design, supervise, evaluate, and modify treatment programs to change the-~~  
13           ~~behavior of individuals diagnosed with an autism spectrum disorder;~~
- 14           (2)   ~~Design, supervise, evaluate, and modify treatment programs to change the-~~  
15           ~~behavior of individuals;~~
- 16           (3)   ~~Design, supervise, evaluate, and modify treatment programs to change the-~~  
17           ~~behavior of groups; and~~
- 18           (4)   ~~Consult with individuals and organizations.~~
- 19           b.    ~~The term does not include diagnosis, counseling, psychological testing,-~~  
20           ~~personality assessment, intellectual assessment, neuropsychological-~~  
21           ~~assessment, psychotherapy, cognitive therapy, sex therapy, family therapy,-~~  
22           ~~coordination of care, psychoanalysis, hypnotherapy, and long term counseling as-~~  
23           ~~treatment modalities.~~
- 24     ~~8.6.~~ "Practice of psychology" means the observation, description, evaluation, interpretation,  
25           or modification of human behavior by the application of psychological principles,  
26           methods, and procedures for the purpose of preventing or eliminating symptomatic,  
27           maladaptive, or undesired behavior and enhancing interpersonal relationships, work  
28           and life adjustment, personal effectiveness, behavioral health, and mental health. The  
29           term includes psychological testing and the evaluation or assessment of personal  
30           characteristics, such as intelligence, personality, abilities, interests, aptitudes, and  
31           neuropsychological functioning; counseling, psychotherapy, biofeedback, behavior

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

10 ~~9.7.~~ "Psychologist" means an individual who is licensed under this chapter in the practice  
11 of psychology.

12 ~~10.8.~~ "Psychology resident" means an individual who is registered by the board and is  
13 actively engaged in supervised practice.

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

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

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

24 **43-32-02. State board of psychologist examiners - How appointed - Qualifications.**

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

1 primarily in teaching, training, or research in psychology ~~or applied behavior analysis~~. Except  
2 the public member, each member must be licensed under this chapter for at least five years.

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

5 **43-32-08. Rules.**

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

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

14 **43-32-08.1. Continuing education requirements.**

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

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

23 **43-32-08.2. Continuing education requirements - Renewal.**

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

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

3       **43-32-09. Examination of qualifications of applicants.**

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

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

8       **43-32-12. Application and fee for licensure and registration.**

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

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

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

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

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

29       **43-32-14. Payment of delinquent annual fee - Reinstatement.**

30       If an individual's license or registration issued under this chapter expires for failure to pay  
31 the annual fee, the board shall reinstate that individual and renew the license or registration if,

1 within one year from the date of expiration, the individual pays to the secretary of the board the  
2 amount of the annual fees in default and a late fee in the amount established by the board by  
3 rule and demonstrates all continuing education requirements have been met or the board has  
4 granted an extension of the period in which to meet the continuing education requirements.

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

7 **43-32-16. Board to keep records.**

- 8 1. The board shall keep a record of its proceedings and a register of all applicants for  
9 licensing ~~or registration~~ which must show:
- 10 a. The name, date of birth, and residence of each applicant.
  - 11 b. The date of each applicant's application.
  - 12 c. The place of business of each applicant.
  - 13 d. A summary of the educational and other qualifications of each applicant.
  - 14 e. Whether an examination was required of an applicant.
  - 15 f. Whether a license ~~or registration~~ was granted to an applicant.
  - 16 g. The date of the action of the board.
  - 17 h. Any information the board determines necessary or advisable in aid of the  
18 requirements of this subsection.
- 19 2. Except as otherwise provided by law, the records of the board are public records and  
20 evidence of the proceedings of the board, and a transcript of board proceedings, duly  
21 certified by the secretary of the board is admissible in evidence with the same effect  
22 as if the original were produced.

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

25 **43-32-17. License required for practice - Titles.**

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

1 industrial-organizational psychology resident under this chapter. ~~Except as otherwise-~~  
2 ~~provided under this chapter, a person may not engage in the practice of applied-~~  
3 ~~behavior analysis unless that person is a licensee or is registered and supervised as-~~  
4 ~~an applied behavior analyst as provided under this chapter.~~

5 2. A person may not use the title "psychologist" or similar title unless that person is  
6 licensed as a psychologist. A person may not use the titles "industrial psychologist",  
7 "organizational psychologist", or "industrial-organizational psychologist" unless that  
8 person is licensed as a psychologist or industrial-organizational psychologist. ~~A person-~~  
9 ~~may not use the title "licensed applied behavior analyst" or similar title unless that-~~  
10 ~~person is an applied behavior analyst. A person may not use the title "registered-~~  
11 ~~applied behavioral analyst" or similar title unless that person is registered and-~~  
12 ~~supervised as a registered applied behavior analyst.~~

13 3. A person may not use the title "psychology resident" or similar title unless that person  
14 is registered as a psychology resident. A person may not use the titles "industrial  
15 psychology resident", "organizational psychology resident", or  
16 "industrial-organizational psychology resident" unless that person is registered as a  
17 psychology resident or industrial-organizational psychology resident.

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

20 **43-32-19.1. Expedited licensure - Licensing ~~or registering~~ applicants licensed or**  
21 **registered in other jurisdictions.**

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

- 22          1. If the board determines ~~that~~ an applicant possesses the qualifications required under  
23            this chapter and under chapter 43-58, 43-59, ~~or 43-61, or 43-64~~, the board shall issue  
24            a license to the applicant.
- 25          2. The board shall establish an expedited procedure for licensure of an applicant who is  
26            certified by a professional organization identified by the board by rule or who holds a  
27            valid license or certificate of registration in another jurisdiction. The board may grant a  
28            provisional license to an expedited licensure applicant while the expedited license  
29            application is pending.

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

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

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

6           **43-57-11. Enforcement - Penalty.**

7           A person that violates this chapter or chapter 43-58, 43-59, ~~or 43-61~~, or 43-64 is guilty of a  
8 class B misdemeanor. In addition to the criminal penalties provided under this section, the civil  
9 remedy of injunction is available to restrain and enjoin any violation of this chapter or chapter  
10 43-58, 43-59, ~~or 43-61~~, or 43-64 without proof of actual damages sustained by any person.

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

13          **43-64-01. Definitions.**

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

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

27          **43-64-02. License required - Title restrictions.**

- 28          1. Effective January 1, 2020, an individual may not practice applied behavior analysis  
29             without a current license issued by the board under this chapter.  
30          2. A licensed behavior analyst may use the title "licensed behavior analyst." A licensed  
31             assistant behavior analyst may use the title "licensed assistant behavior analyst."

1           Effective January 1, 2020, an individual who uses these terms as identification without  
2           having received a license as required under this chapter is engaging in the practice of  
3           applied behavior analysis without a license.

4           **43-64-03. Qualifications for licensure.**

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

8           **43-64-04. Application for licensure.**

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

12           a. Successful completion of education, examination, and experience requirements  
13           established by the board, such as certification from the behavior analyst  
14           certification board or a certifying entity accredited by the national commission for  
15           certifying entities or the American national standards institute;

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

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

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

25           3. The board shall establish standards for licensed behavior analysts supervising  
26           licensed assistant behavior analysts.

27           **43-64-05. Initial applications - Grandfather provision.**

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

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