

**SENATE BILL NO. 2141
with House Amendments
SENATE BILL NO. 2141**

Introduced by

Senator Anderson

Representative Blum

1 A BILL for an Act to amend and reenact sections 43-32-01, 43-32-02, 43-32-05, 43-32-06.1,
2 43-32-07, 43-32-08.1, 43-32-12, 43-32-13, 43-32-14, 43-32-16, 42-32-17, 43-32-19.1, 43-32-20,
3 43-32-20.1, 43-32-24, 43-32-26, 43-32-27, 43-32-27.1, and 43-32-30 of the North Dakota
4 Century Code, relating to regulation by the state board of psychologist examiners; and to repeal
5 sections 43-32-33 and 43-32-34 of the North Dakota Century Code, relating to applied behavior
6 analysis.

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

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

10 **43-32-01. Definitions.**

- 11 1. "Applied behavior analyst" means an individual licensed under this chapter as an
12 applied behavior analyst. The term does not include a registered applied behavior
13 analyst.
- 14 2. ~~"Autism spectrum disorder" means a neurobiological medical condition that includes~~
15 ~~autistic disorder, Asperger's disorder, pervasive development disorder not otherwise~~
16 ~~specified, Rett's disorder, and childhood disintegrative disorder.~~
- 17 3. "Board" means the North Dakota state board of psychologist examiners.
- 18 ~~4.3.~~ "Industrial-organizational psychologist" means an individual who is licensed under this
19 chapter to engage in the practice of industrial-organizational psychology.
- 20 ~~5.4.~~ "Industrial-organizational psychology" means the provision of psychological research
21 services or consultation services to a group or an organization. The term does not
22 include the delivery or supervision of services to individuals who are themselves,
23 rather than the group or organization, the intended beneficiaries of the services,
24 regardless of the source or extent of payment for services rendered.

1 ~~6-5.~~ "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 ~~7-6.~~ "Licensee" means an industrial-organizational psychologist, an applied behavior
6 analyst, or a psychologist.

7 ~~8-7.~~ "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 those 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 ~~9-8.~~ "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 ~~40.9.~~ "Psychologist" means an individual who is licensed under this chapter in the practice
11 of psychology.

12 ~~41.10.~~ "Psychology resident" means an individual who has met the requirement of
13 ~~subdivision b of subsection 1 of section 43-32-20, is involved~~ is registered by the board
14 and is actively engaged in supervised psychological employment, ~~and has registered~~
15 ~~with the board practice.~~

16 ~~42.11.~~ "Registered applied behavior analyst" or "registrant" means an individual who is
17 registered under this chapter as a registered applied behavior analyst and is
18 supervised by a ~~licensed~~ psychologist or applied behavior analyst. The term does not
19 include an applied behavior analyst.

20 ~~43.12.~~ "School or college" means any university or other institution of higher learning which is
21 accredited by a regional accrediting association, offering a full-time graduate course of
22 study in industrial-organizational psychology, psychology, or applied behavior analysis,
23 as appropriate.

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

26 **43-32-02. State board of psychologist examiners - How appointed - Qualifications.**

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

1 service in psychology or applied behavior analysis, and at least one member must be engaged
2 primarily in teaching, training, or research in psychology or applied behavior analysis. Except
3 the public member, each member must:

- 4 1. ~~Be a resident of this state.~~
- 5 2. Be be licensed under this chapter for at least five years.

6 **SECTION 3. AMENDMENT.** Section 43-32-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-32-05. Compensation of members - Expenses of board and members.**

9 Each member of the board serves without compensation, but is entitled to receive
10 reimbursement for board expenses, mileage, and travel expenses while engaged in the
11 performance of board duties as provided in section 54-06-09. The secretary of the board is
12 entitled to receive salary or other compensation and allowance for clerical and other expenses
13 of the board, as the board determines.

14 **SECTION 4. AMENDMENT.** Section 43-32-06.1 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-32-06.1. Authority to appoint or employ.**

17 The board may appoint, contract with, or employ persons to assist the board in carrying out
18 its duties under this chapter.

19 **SECTION 5. AMENDMENT.** Section 43-32-07 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-32-07. Meetings of board ~~–Seal of board.~~**

22 The board shall hold at least one regular meeting each year. Additional meetings may be
23 held upon call of the president or at the written request of the governor or of any two members
24 of the board. The meetings must be held at such places as the board may designate. ~~The board~~
25 ~~must have a seal.~~

26 **SECTION 6. AMENDMENT.** Section 43-32-08.1 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-32-08.1. Continuing education requirements.**

29 The board shall adopt rules establishing requirements for the continuing education of all
30 licensees, psychology residents, registrants, and industrial-organizational psychology residents.
31 The board may refuse to renew, suspend, revoke, or place on probationary status any license

1 or registration issued under this chapter if the licensee or registrant fails to meet applicable
2 continuing education requirements. ~~Applicants for accreditation~~ Sponsors of continuing
3 education courses, classes, or activities may be charged a reasonable fee determined by the
4 board.

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

7 **43-32-12. Application and fee for licensure and registration.**

8 The board shall adopt rules establishing the amount of the application fee for licensure and
9 registration. A fee is not refundable, ~~in whole or in part, except for failure of the board to hold~~
10 ~~examinations at the time originally announced, in which event the entire fee must be refunded~~
11 ~~upon demand by the applicant.~~

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

14 **43-32-13. Annual license and registration fee.**

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

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

1 **43-32-14. Payment of delinquent annual fee - Reinstatement.**

2 ~~An individual whoself an individual's~~ license or registration issued under this chapter has-
3 ~~expired~~expires for failure to pay the annual fee ~~must be reinstated, the board shall reinstate that~~
4 individual and renew the license or registration ~~renewed~~ if, within one year from the date of
5 expiration, the individual pays to the secretary of the board the amount of the annual fees in
6 default and a late fee in the amount established by the board by rule and demonstrates all
7 continuing education requirements have been met or the board has granted an extension of the
8 period in which to meet the continuing education requirements.

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

11 **43-32-16. Board to keep records.**

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

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

29 **43-32-17. License required for practice - Titles.**

- 30 1. Except as otherwise provided under this chapter, a person may not engage in the
31 practice of psychology unless that person is licensed as a psychologist or is registered

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

10 2. A person may not use the title "psychologist" or similar title unless that person is
11 licensed as a psychologist. A person may not use the titles "industrial psychologist",
12 "organizational psychologist", or "industrial-organizational psychologist" unless that
13 person is licensed as a psychologist or industrial-organizational psychologist. A person
14 may not use the title "licensed applied behavior analyst" or similar title unless that
15 person is ~~licensed as an applied behavior analyst~~. A person may not use the title
16 "registered applied behavioral analyst" or similar title unless that person is registered
17 and supervised as a registered applied behavior analyst.

18 3. A person may not use the title "psychology resident" or similar title unless that person
19 is registered as a psychology resident. A person may not use the titles "industrial
20 psychology resident", "organizational psychology resident", or
21 "industrial-organizational psychology resident" unless that person is registered as a
22 psychology resident or industrial-organizational psychology resident.

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

25 **43-32-19.1. Expedited licensure - Licensing or registering applicants licensed or**
26 **registered in other jurisdictions.**

27 1. The board may grant a license or registration to an applicant who is an individual
28 licensed, certified, or registered in good standing in another jurisdiction that imposes
29 requirements for licensure or registration and who files a completed application on a
30 form and in a manner the board prescribed, submits the required fee, and submits
31 documentation:

- 1 a. ~~Meets standards established by the board~~Confirming graduation from an
2 accredited program in the degree of licensure or registration for which the
3 individual is applying in this state; or
- 4 b. ~~Is an applicant for licensure as a psychologist who holds a certificate of~~
5 professional qualification in psychology issued by an entity approved by the
6 board, such as the association of state and provincial psychology boards or its
7 successorConfirming completion of a national examination required by the board
8 related to competence in psychology or applied behavior analysis;
- 9 c. Identifying all professional licenses, certifications, or registrations previously
10 obtained by the applicant in any jurisdiction;
- 11 d. Explaining any professional or personal conduct that reasonably may be
12 interpreted as indicating an inability to adhere to this chapter, including the code
13 of ethical conduct adopted by the board; and
- 14 e. Providing the board with a release by which the board may obtain from the
15 applicant's current jurisdiction, confirmation of the educational degree the
16 applicant's licensure or registration required, documentation of any disciplinary
17 action related to the applicant's license or registration, and an explanation of all
18 levels in the applicant's profession the current jurisdiction licenses or registers.
- 19 2. As a condition to qualify for licensure or registration under subsection 1, the board
20 may require the applicant pass an ~~oral~~ examination on the ethics, laws, and rules
21 regulating the practice of psychology, industrial-organizational psychology, or applied
22 behavior analysis, as appropriate to the licensure or registration sought by the
23 applicant.
- 24 3. Notwithstanding any contrary provision of this chapter, the board may issue a license
25 or registration as authorized under chapter 43-51.
- 26 4. The board may grant a provisional license or registration to an expedited licensure
27 applicant while the application is pending, ~~if the applicant is licensed or registered and~~
28 ~~is in good standing in another jurisdiction or is.~~ The board may grant a provisional
29 registration to an individual who is applying for registration as an applied behavior
30 analyst if the individual is certified by a professional organization that is identified by
31 the board by rule. The board may ~~not grant~~deny or place restrictions on a provisional

1 license or registration under this subsection if in another jurisdiction, within the
2 previous five years, the applicant had a disciplinary action against the applicant's
3 license or registration.

4 5. Except as otherwise provided under this chapter, and in accordance with rules
5 adopted by the board, the board ~~shall~~may issue a limited practice certificate to an
6 applicant who is licensed or registered in another jurisdiction to practice psychology,
7 industrial-organizational psychology, or applied behavior analysis. A limited practice
8 certificate issued under this subsection authorizes the practice of psychology,
9 industrial-organizational psychology, or applied behavior analysis in this state for no
10 more than thirty days in a calendar year.

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

13 **43-32-20. Licensing - Written and oral examination - Qualifications of applicants.**

14 The board ~~shall~~may issue a license or registration to each applicant who files ~~an~~a
15 completed application upon a form and in a manner the board prescribes, submits the required
16 fee, and meets the requirements of subsection 1 ~~or~~ 2, or 3.

- 17 1. An applicant for licensure as a psychologist shall demonstrate all of the following:
- 18 a. The applicant will adhere to the ~~American psychological association ethical~~
19 ~~principles of psychologists and code of~~ ethical conduct adopted by the board by
20 rule.
 - 21 b. The applicant has received, from a school or college, a doctorate degree in a
22 program that is accredited as a doctoral program in psychology by an accrediting
23 body approved by the board by rule.
 - 24 c. The applicant has passed the examinations, written or oral, or both, as the board
25 determines necessary.
 - 26 d. The applicant has completed at least two full years of supervised professional
27 experience, one year of which must be an internship program, and one year of
28 which may be postdoctoral. Both years of experience must comply with the
29 board's rules.
- 30 2. An applicant for licensure as an industrial-organizational psychologist shall
31 demonstrate all of the following:

- 1 a. The applicant will adhere to the ~~American psychological association ethical-~~
2 ~~principles of psychologists and~~ code of ethical conduct adopted by the board by
3 rule.
- 4 b. The applicant has received, from a school or college, a doctorate degree in a
5 program of studies accredited by an accrediting body approved by the board by
6 rule, ~~which may include the American psychological association.~~
- 7 c. The applicant has passed the examinations, written or oral, or both, as the board
8 determines necessary.
- 9 d. The applicant has completed the professional experience requirements
10 established by the board. The requirements may not exceed the professional
11 experience requirements for psychologists. If the professional experience
12 requirements include a supervised experience requirement:
 - 13 (1) The board must allow an applicant to submit to the board a personalized
14 plan for supervised experience which may include distance-supervision by a
15 qualified industrial-organizational psychologist.
 - 16 (2) The board may adopt rules to establish who is qualified to perform
17 supervision, supervision requirements, and reporting.
- 18 3. An applicant for licensure as an applied behavior analyst or registration as a registered
19 applied behavior analyst shall:
 - 20 a. Submit written documentation confirming the applicant will adhere to the code of
21 ethical conduct adopted by the board by rule.
 - 22 b. Demonstrate the applicant meets board-approved education requirements
23 adopted by the board by rule.
 - 24 c. Demonstrate the applicant passed examinations demonstrating professional
25 competence adopted by the board by rule.
 - 26 d. Provide documentation indicating the applicant has established supervision
27 requirements as determined by the board by rule. The board's rule must allow for
28 supervision of board certified behavioral analysts by professionals with equivalent
29 or greater training.

30 **SECTION 14. AMENDMENT.** Section 43-32-20.1 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **43-32-20.1. Postdoctoral supervised psychological employment.**

2 1. This section applies to postdoctoral supervised employment in the practice of
3 psychology and industrial-organizational psychology.

4 2. Before starting supervised employment, a psychologist with at least three years of
5 post-license practice experience must be identified as the primary supervisor. The
6 primary supervisor must have a competency in supervision in professional psychology
7 in the general area of practice being supervised.

8 3. Supervision must occur weekly and consist of at least one hundred hours of direct
9 supervision, either face-to-face or through distance communications. At least fifty of
10 the hours of supervision must be with the primary supervisor. Additional hours of
11 supervision may be with other professionals designated by the supervisor and
12 competent in the area of practice being supervised. The board may adopt rules to
13 prorate supervision for individuals preparing for licensure on a part-time basis.

14 4. a. An applicant seeking registration as a resident shall submit the following to the
15 board:

16 (1) A supervision relationship form;

17 (2) An application initiation form and fee; and

18 (3) A completed online licensure application.

19 b. The board shall register an applicant as a resident if the documentation
20 submitted by the applicant confirms the applicant meets the standards required
21 by law.

22 c. The board shall adopt rules setting forth the requirements necessary to maintain
23 a residency, including rules related to the supervision requirements for residents.

24 5. The board may adopt rules regarding postdoctoral psychology and
25 industrial-organizational psychology supervision requirements and reporting.

26 **SECTION 15. AMENDMENT.** Section 43-32-24 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-32-24. Notice to applicant of examination results and right to re-examination.**

29 The board shall ~~state in writing its reason for refusal of a license to any applicant who has~~
30 ~~been so denied~~inform the applicant of the results of the examination. An applicant who fails the

1 examination may be re-examined at a subsequent examination upon again paying the required
2 examination fee.

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

5 **43-32-26. Issuance and display of license.**

6 The board is the sole agency empowered to examine competence in the practice of
7 psychology. A certificate of license or registration issued by the board must show the full name
8 of the licensee, have a serial number, be signed by the president of the board, and be attested
9 by the secretary ~~under the board's adopted seal~~. The license issued by the board under this
10 chapter must be prominently displayed at the principal place of business at which the licensee
11 practices.

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

14 **43-32-27. Denial - Revocation or suspension of license or registration - Grounds.**

- 15 1. The board, after notice, hearing, and an affirmative vote of at least a majority of board
16 members, may withhold, deny, revoke, or suspend any license or registration issued or
17 applied for under this chapter and may otherwise discipline a licensee, a registrant, or
18 an applicant upon proof the applicant, registrant, or licensee:
- 19 a. Has been convicted of an offense determined by the board to have a direct
20 bearing upon an individual's ability to serve the public in the practice of
21 psychology or applied behavior analysis, or if the board finds, after the conviction
22 of any offense, that an individual is not sufficiently rehabilitated under section
23 12.1-33-02.1.
 - 24 b. Is unable to practice psychology or applied behavior analysis with reasonable
25 skill and safety to clients or patients by reason of illness, inebriation, misuse of
26 drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any
27 mental or physical condition.
 - 28 c. Has impersonated another individual holding a license or registration issued
29 under this chapter or allowed another person to use the licensee's license or
30 registration.

- 1 d. Has used fraud or deception in applying for a license or registration or in taking
2 an examination under this chapter.
- 3 e. Has allowed the licensee's or registrant's name or license or registration issued
4 under this chapter to be used in connection with any person who performs
5 psychological or applied behavior analysis services outside of the area of that
6 person's training, experience, or competence.
- 7 f. Is legally adjudicated insane or mentally incompetent. The record of the
8 adjudication is conclusive evidence of that fact.
- 9 g. Has engaged in any form of unethical conduct as defined in ~~ethical principles~~
10 ~~and~~ the code of ethical conduct adopted by the board by rule.
- 11 h. Has become grossly negligent in the practice of psychology or applied behavior
12 analysis.
- 13 i. Has willfully or negligently violated this chapter.
- 14 j. Has engaged in an act in violation of rules adopted by the board.
- 15 k. Has had a license or registration revoked or suspended or was disciplined in
16 another jurisdiction.
- 17 2. The board shall state in writing the board's reason for denying a license or registration.
- 18 3. The board may assess costs incurred by the board related to investigations and
19 disciplinary actions. By rule, the board may set fees or fines, not to exceed five
20 hundred dollars. for minor infractions of this chapter.
- 21 ~~3.4.~~ An individual whose license or registration has been revoked under this section may
22 not reapply for licensure or registration for at least two years after the date of
23 revocation.
- 24 4.5. Other than the term "in good standing", by rule, the board shall define terms related to
25 license status, such as "revoked", "suspended", "inactive", and "probationary".

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

28 **43-32-27.1. Complaints - Investigations.**

- 29 1. A person aggrieved by the actions of a licensee, registrant, or psychology resident
30 may file a written statement with the board citing the specific allegations of misconduct
31 ~~by the licensee.~~ The board shall notify the licensee, registrant, or psychology resident

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

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

1 **43-32-30. Persons exempt from this chapter.**

2 This chapter does not apply to:

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

1 ~~intent to practice pending disposition of the application and the applicant adheres to~~
2 ~~the requirements of this chapter and the rules adopted by the board.~~

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

8 ~~7.6.~~ An individual providing applied behavior analysis services to an individual in a public
9 school setting.

10 8. ~~An individual providing applied behavior analysis services to an individual served by a~~
11 ~~public or private service agency licensed by the state to provide residential,~~
12 ~~habilitative, vocational, or social support services as defined by the board when~~
13 ~~performed as part of an individual support plan supervised by a professional employee~~
14 ~~meeting the requirements of that agency's licensure standards, provided the~~
15 ~~professional employee does not represent to the public as a registrant, applied~~
16 ~~behavior analyst, or psychologist.~~

17 ~~9.7.~~ An individual who is implementing applied behavior analysis services to an immediate
18 family member or as a paid or volunteer caregiver implementing procedures
19 established by the family or by the individual served in any setting, if the individual or
20 caregiver does not represent as a registrant or an applied behavior analyst.

21 ~~10.~~ An individual licensed as an occupational therapist or an occupational therapy
22 assistant pursuant to chapter 43-30 within the body of knowledge and scope of
23 professional practice of occupational therapy.

24 **SECTION 20. REPEAL.** Sections 43-32-33 and 43-32-34 of the North Dakota Century
25 Code are repealed.