

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2236
(Senators J. Lee, Anderson)
(Representative Beadle)

AN ACT to create and enact chapter 43-64 of the North Dakota Century Code, relating to the licensure and regulation of behavior analyst professionals; to amend and reenact 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, 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, 43-57-03, and 43-57-06, subsection 2 of section 43-57-07, and section 43-57-11 of the North Dakota Century Code, relating to the regulation of applied behavioral analysts of psychologist examiners and to the board of integrative health care; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-32-01. Definitions.

1. ~~"Applied behavior analyst" means an individual licensed under this chapter as an applied behavior analyst. The term does not include a registered applied behavior analyst.~~
2. "Board" means the North Dakota state board of psychologist examiners.
- ~~3.2.~~ "Industrial-organizational psychologist" means an individual who is licensed under this chapter to engage in the practice of industrial-organizational psychology.
- ~~4.3.~~ "Industrial-organizational psychology" means the provision of psychological research services or consultation services to a group or an organization. The term does not include the delivery or supervision of services to individuals who are themselves, rather than the group or organization, the intended beneficiaries of the services, regardless of the source or extent of payment for services rendered.
- ~~5.4.~~ "Industrial-organizational psychology resident" means an individual who has met the requirement of subdivision b of subsection 2 of section 43-32-20, is involved in supervised employment in industrial-organizational psychology, and has registered with the board.
- ~~6.5.~~ "Licensee" means an industrial-organizational psychologist, ~~an applied behavior analyst,~~ or a psychologist.
7. "Practice of applied behavior analysis":
 - a. ~~Means the application of the principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis, including principles of operant and respondent learning. The term includes applications of those principles, methods, and procedures to:~~
 - (1) ~~Design, supervise, evaluate, and modify treatment programs to change the behavior of individuals diagnosed with an autism spectrum disorder;~~
 - (2) ~~Design, supervise, evaluate, and modify treatment programs to change the behavior of individuals;~~

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

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

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

~~8-6.~~ "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The term includes psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychotherapy, biofeedback, behavior analysis and therapy, clinical applications of hypnosis, and other therapeutic techniques based on psychological principles; diagnosis and treatment of mental and emotional disorder or disability, compulsive disorders, disorders of habit or conduct as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. The term includes providing psychological services to individuals, families, groups, organizations, institutions, and the public regardless of whether payment is received for services rendered. The term includes supervising others who are engaged in the practice of psychology.

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

~~10-8.~~ "Psychology resident" means an individual who is registered by the board and is actively engaged in supervised practice.

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

~~12-9.~~ "School or college" means any university or other institution of higher learning which is accredited by a regional accrediting association, offering a full-time graduate course of study in industrial-organizational psychology; or psychology; ~~or applied behavior analysis~~, as appropriate.

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

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

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

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

43-32-08. Rules.

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

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

43-32-08.1. Continuing education requirements.

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

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

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

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

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

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

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

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

43-32-12. Application and fee for licensure ~~and registration~~.

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

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

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

Annually, the board shall mail or transmit by electronic mail a renewal notice and application to each licensee ~~and registrant~~ at the address or electronic mail address on file with the board. Before November fifteenth of each year, every licensee ~~and registrant~~ shall apply for renewal on a renewal application form provided by the board and pay to the secretary of the board an annual fee determined

by the board by rule. Upon confirmation by the board the renewal application is complete, the criteria for renewal have been met, and the secretary of the board has received payment of the annual fee, the secretary shall issue the licensee ~~or registrant~~ a certificate of annual renewal, which commences on January first. An individual may not hold out as an industrial-organizational psychologist, ~~an applied behavior analyst, a registered applied behavior analyst,~~ or a psychologist until the annual fee is paid. The board may deny renewal of the license ~~or registration~~ of an individual who violates this section. Annually, the board shall mail or electronically mail a renewal notice to each licensee ~~and registrant~~ at the address or electronic mail address on file with the board.

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

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

If an individual's license ~~or registration~~ issued under this chapter expires for failure to pay the annual fee, the board shall reinstate that individual and renew the license ~~or registration~~ if, within one year from the date of expiration, the individual pays to the secretary of the board the amount of the annual fees in default and a late fee in the amount established by the board by rule and demonstrates all continuing education requirements have been met or the board has granted an extension of the period in which to meet the continuing education requirements.

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

43-32-16. Board to keep records.

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

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

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

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

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

2. A person may not use the title "psychologist" or similar title unless that person is licensed as a psychologist. A person may not use the titles "industrial psychologist", "organizational psychologist", or "industrial-organizational psychologist" unless that person is licensed as a psychologist or industrial-organizational psychologist. ~~A person may not use the title "licensed applied behavior analyst" or similar title unless that person is an applied behavior analyst. A person may not use the title "registered applied behavioral analyst" or similar title unless that person is registered and supervised as a registered applied behavior analyst.~~
3. A person may not use the title "psychology resident" or similar title unless that person is registered as a psychology resident. A person may not use the titles "industrial psychology resident", "organizational psychology resident", or "industrial-organizational psychology resident" unless that person is registered as a psychology resident or industrial-organizational psychology resident.

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

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

1. The board may grant a license ~~or registration~~ to an applicant who is an individual licensed, certified, or registered in another jurisdiction and who files a completed application on a form and in a manner the board prescribed, submits the required fee, and submits documentation:
 - a. Confirming graduation from an accredited program in the degree of licensure ~~or registration~~ for which the individual is applying in this state;
 - b. Confirming completion of a national examination required by the board related to competence in psychology ~~or applied behavior analysis~~;
 - c. Identifying all professional licenses, certifications, or registrations previously obtained by the applicant in any jurisdiction;
 - d. Explaining any professional or personal conduct that reasonably may be interpreted as indicating an inability to adhere to this chapter, including the code of ethical conduct adopted by the board; and
 - e. Providing the board with a release by which the board may obtain from the applicant's current jurisdiction, confirmation of the educational degree the applicant's licensure or registration required, documentation of any disciplinary action related to the applicant's license or registration, and an explanation of all levels in the applicant's profession the current jurisdiction licenses or registers.
2. As a condition to qualify for licensure ~~or registration~~ under subsection 1, the board may require the applicant pass an examination on the ethics, laws, and rules regulating the practice of psychology; or industrial-organizational psychology; ~~or applied behavior analysis~~, as appropriate to the licensure ~~or registration~~ sought by the applicant.
3. Notwithstanding any contrary provision of this chapter, the board may issue a license ~~or registration~~ as authorized under chapter 43-51.

4. The board may grant a provisional license ~~or registration~~ to an expedited licensure applicant while the application is pending. ~~The board may grant a provisional registration to an individual who is applying for registration as an applied behavior analyst if the individual is certified by a professional organization that is identified by the board by rule.~~ The board may deny or place restrictions on a provisional license ~~or registration~~ under this subsection if in another jurisdiction, within the previous five years, the applicant had a disciplinary action against the applicant's license or registration.
5. Except as otherwise provided under this chapter, and in accordance with rules adopted by the board, the board may issue a limited practice certificate to an applicant who is licensed or registered in another jurisdiction to practice psychology, or industrial-organizational psychology, ~~or applied behavior analysis~~. A limited practice certificate issued under this subsection authorizes the practice of psychology, or industrial-organizational psychology, ~~or applied behavior analysis~~ in this state for no more than thirty days in a calendar year.

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

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

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

1. An applicant for licensure as a psychologist shall demonstrate all of the following:
 - a. The applicant will adhere to the code of ethical conduct adopted by the board by rule.
 - b. The applicant has received, from a school or college, a doctorate degree in a program that is accredited as a doctoral program in psychology by an accrediting body approved by the board by rule.
 - c. The applicant has passed the examinations, written or oral, or both, as the board determines necessary.
 - d. The applicant has completed at least two full years of supervised professional experience, one year of which must be an internship program, and one year of which may be postdoctoral. Both years of experience must comply with the board's rules.
2. An applicant for licensure as an industrial-organizational psychologist shall demonstrate all of the following:
 - a. The applicant will adhere to the code of ethical conduct adopted by the board by rule.
 - b. The applicant has received, from a school or college, a doctorate degree in a program of studies accredited by an accrediting body approved by the board by rule.
 - c. The applicant has passed the examinations, written or oral, or both, as the board determines necessary.
 - d. The applicant has completed the professional experience requirements established by the board. The requirements may not exceed the professional experience requirements for psychologists. If the professional experience requirements include a supervised experience requirement:
 - (1) The board must allow an applicant to submit to the board a personalized plan for supervised experience which may include distance-supervision by a qualified industrial-organizational psychologist.

- (2) The board may adopt rules to establish who is qualified to perform supervision, supervision requirements, and reporting.
3. ~~An applicant for licensure as an applied behavior analyst or registration as a registered applied behavior analyst shall:~~
- a. ~~Submit written documentation confirming the applicant will adhere to the code of ethical conduct adopted by the board by rule.~~
 - b. ~~Demonstrate the applicant meets board approved education requirements adopted by the board by rule.~~
 - c. ~~Demonstrate the applicant passed examinations demonstrating professional competence adopted by the board by rule.~~
 - d. ~~Provide documentation indicating the applicant has established supervision requirements as determined by the board by rule. The board's rule must allow for supervision of board certified behavioral analysts by professionals with equivalent or greater training.~~

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

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

1. The board, after notice, hearing, and an affirmative vote of at least a majority of board members, may withhold, deny, revoke, or suspend any license ~~or registration~~ issued or applied for under this chapter and may otherwise discipline a licensee, ~~a registrant~~, or an applicant upon proof the applicant, ~~registrant~~, or licensee:
 - a. Has been convicted of an offense determined by the board to have a direct bearing upon an individual's ability to serve the public in the practice of psychology ~~or applied behavior analysis~~, or if the board finds, after the conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
 - b. Is unable to practice psychology ~~or applied behavior analysis~~ with reasonable skill and safety to clients or patients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.
 - c. Has impersonated another individual holding a license ~~or registration~~ issued under this chapter or allowed another person to use the licensee's license ~~or registration~~.
 - d. Has used fraud or deception in applying for a license ~~or registration~~ or in taking an examination under this chapter.
 - e. Has allowed the licensee's ~~or registrant's~~ name or license ~~or registration~~ issued under this chapter to be used in connection with any person who performs psychological ~~or applied behavior analysis~~ services outside of the area of that person's training, experience, or competence.
 - f. Is legally adjudicated insane or mentally incompetent. The record of the adjudication is conclusive evidence of that fact.
 - g. Has engaged in any form of unethical conduct as defined in the code of ethical conduct adopted by the board by rule.
 - h. Has become grossly negligent in the practice of psychology ~~or applied behavior analysis~~.
 - i. Has willfully or negligently violated this chapter.

- j. Has engaged in an act in violation of rules adopted by the board.
 - k. Has had a license ~~or registration~~ revoked or suspended or was disciplined in another jurisdiction.
2. The board shall state in writing the board's reason for denying a license ~~or registration~~.
 3. The board may assess costs incurred by the board related to investigations and disciplinary actions. By rule, the board may set fees or fines, not to exceed five hundred dollars, for minor infractions of this chapter.
 4. An individual whose license ~~or registration~~ has been revoked under this section may not reapply for licensure ~~or registration~~ for at least two years after the date of revocation.
 5. Other than the term "in good standing", by rule, the board shall define terms related to license status, such as "revoked", "suspended", "inactive", and "probationary".

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

43-32-27.1. Complaints - Investigations.

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

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

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

This chapter does not apply to:

1. A student or intern pursuing a course of study in psychology, or industrial-organizational psychology, ~~or applied behavior analysis~~ at a school or college, if the activities and services are a part of the individual's supervised course of study and are under the supervision of a licensed psychologist who meets the required supervision and continuing education requirements and demonstrates competency in the area of the student's or intern's practice, or industrial-organizational psychologist, ~~or applied behavior analyst~~. The student or intern may not use the title "psychologist"; or "industrial-organizational psychologist"; ~~"licensed behavior analyst", or "registered applied behavior analyst"~~. The student or intern status and the supervisor must be clearly stated.
2. A lecturer, from any school or college, who uses an academic or research title when lecturing to institutions or organizations. However, the lecturer may not engage in the practice of psychology, ~~applied behavior analysis~~, or industrial-organizational psychology unless the lecturer is licensed or registered under this chapter.
3. An individual employed by a public school if that individual's activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption applies only if the individual has received a master's degree in school psychology from an accredited graduate training program. Standards must be established by mutual consent of the board and the education standards and practices board.
4. ~~A person~~An individual certified, licensed, or registered in this state in another health care profession, or as a member of the clergy functioning in a ministerial capacity, whose scope of practice is consistent with the accepted standards of that ~~person's~~individual's profession. ~~A person~~An individual claiming an exemption under this subsection may not represent to be rendering psychological ~~or applied behavior analysis~~ services.
5. ~~A person~~An individual employed by an agency, a nonprofit corporation, or an institution if that ~~person~~individual is currently exempt from licensure. ~~A person~~An individual exempt under this subsection continues to be exempt if the ~~person~~individual continues employment in the same position with the agency, nonprofit corporation, or institution that applied for and received the exemption.
6. ~~An individual providing applied behavior analysis services to an individual in a public school setting.~~
7. ~~An individual who is implementing applied behavior analysis services to an immediate family member or as a paid or volunteer caregiver implementing procedures established by the family or by the individual served in any setting, if the individual or caregiver does not represent as a registrant or an applied behavior analyst.~~

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

43-57-01. Definitions.

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

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

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

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

1. The board shall adopt rules:
 - a. To administer and enforce this chapter and chapters 43-58, 43-59, and 43-61, and 43-64;
 - b. That specify the scope of practice, which must be consistent with the required education for each profession regulated by the board;
 - c. To establish any exemptions from licensure;
 - d. That endorse equivalent licensure examinations of another state or foreign country and which may include licensure by reciprocity;
 - ~~d.e.~~ That establish educational standards for each profession regulated by the board as appropriate; and
 - e.f. That set fees for licensure, which may include:
 - (1) Application fee;
 - (2) License fee;
 - (3) Renewal fee;
 - (4) Late fee;
 - (5) Administrative fees; and
 - (6) Continuing education fees.
2. The board shall produce an annual list of the names and level of licensure of all individuals licensed by the board and make the list available upon request.
3. The board may employ staff and provide for staff compensation.
4. The board shall receive all moneys collected under this chapter, ~~chapter~~ and chapters 43-58, 43-59, and 43-61, and 43-64 and shall deposit and disburse all fees and moneys collected in accordance with section 54-44-12.
5. The board may establish continuing education requirements for license renewal.
6. The board may adopt a code of ethics for each profession regulated by the board.
7. The board may adopt rules allowing students to practice under licensed supervision.

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

43-57-06. Issuance of license - Expedited.

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

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

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

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

43-57-11. Enforcement - Penalty.

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

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

43-64-01. Definitions.

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

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

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

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

43-64-03. Qualifications for licensure.

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

43-64-04. Application for licensure.

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

- a. Successful completion of education, examination, and experience requirements established by the board, such as certification from the behavior analyst certification board or a certifying entity accredited by the national commission for certifying entities or the American national standards institute;
 - b. Physical, mental, and professional capability for the practice of applied behavior analysis in a manner acceptable to the board; and
 - c. A history free of any finding by the board, any other state licensure board, or any court of competent jurisdiction of the commission of any act that would constitute grounds for disciplinary action under this chapter and chapter 43-57. The board may modify this restriction for cause.
2. The application must be accompanied by the board-established license fees and application fees and by the documents, affidavits, and certificates necessary to establish the applicant possesses the necessary qualifications.
 3. The board shall establish standards for licensed behavior analysts supervising licensed assistant behavior analysts.

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

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2236.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 74 Nays 12 Absent 8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State