

**Engrossed Senate Bill 2155 – Department of Human Services
House Human Services Committee
Representative Weisz, Chairman
March 8, 2011**

Chairman Weisz, members of the House Human Services Committee, I am Paul Kolstoe, Clinical Director of the North Dakota Developmental Center of the Department of Human Services and a Licensed Clinical Psychologist. I am here today to testify in support of Engrossed Senate Bill 2155.

My role at the North Dakota Developmental Center includes directing the new statewide Intellectual Disabilities Behavioral Health Service to prevent institutionalization of people with intellectual disabilities. I want to point out that this bill does not impact my practice as a licensed psychologist, but does as a leader of people doing behavior analysis across the state. Superintendent Alex Schweitzer asked me to form a work group to craft amendments to the original bill to aide this valuable effort to professionalize behavior analysis.

The original bill was intended to enable professionals with national certification in behavior analysis to help children with autism using critically important behavioral technology in a regulated profession. Besides helping children in desperate need, it can provide an avenue to authorize financial and other resources to make a dramatic change in their lives. With the amendments adopted by the Senate, this bill accomplishes the original goal of regulating the profession without creating problems for existing supports.

The current version of the bill was developed with a work group including two members of the Board of Psychologist Examiners, a license exempt psychologist, a state employed behavior modification specialist, one of the two nationally Board Certified Behavior Analysts (BCBA) that we have in North Dakota, two behavior analysts employed by private providers serving children and adults with intellectual disabilities, and the Medical Director of Behavioral Health Services at Blue Cross and Blue Shield of North Dakota. I had the pleasure of chairing this work group.

Behavior analysts – under that name or similar titles – have been serving children and adults with developmental disabilities in North Dakota since the 1980's. Over twenty professionals around the state have been critically important in supporting people to move from the institution or stay in their home community. Until the last few years, there has been very little professional regulation of behavior analysis in the United States and none in North Dakota.

Nationally, there is now a behavior analysis certification board that has established standards and created an examination to recognize highly skilled people. There are two such behavior analysts in North Dakota now and two known to be studying to complete those standards. While their standards are very impressive, they exceed the levels of achievement generally needed in North Dakota at this time. Amendments passed in the Senate broaden the standards to a level appropriate for North Dakota and give the Board of Psychologist Examiners the flexibility to adjust those standards as training and training programs rise to meet the higher levels.

Until a minor wording change in a 'housekeeping amendment' to the psychology licensing law in 2009, behavior analysis was not even mentioned as a practice area in North Dakota. In the last year the Board of Psychologist Examiners expressed concerns that behavior analysts might now be considered to be practicing psychology, but are currently unregulated. Between new developments in autism services through insurance coverage who expect licensing standards, and the concern of confusion with psychology practice, these issues generate the pressing need for this regulatory bill.

Let me provide a brief overview of the work groups recommendations that were incorporated to help put the bill into context:

1. Endorsed that the psychology act is an appropriate place to regulate applied behavior analysis as a recognized sub-domain of psychology.
2. The current bill now aligns language with regulatory conventions as 'licensure and registration', which are terms more commonly used in professional regulation.
3. Creates a registered applied behavior analyst role that requires supervision, in a manner parallel to the national system of standards.
4. Specific licensing and registration qualifications in the bill are set through Administrative Code, where the Board can adjust it to conditions over time in North Dakota. The National Behavior Analysis Certification Board (BACB) standards are too limited for North Dakota in recruiting and retention of behavior analysts. These are being adopted primarily in the most populated states at this time.

5. Exemptions are included to avoid over-regulation in developmental disabilities and daycares, and in family situations. Program Coordinators are not a regulated profession and should remain exempt even though they provide a minimal level of behavior analysis services.
6. Finally, 'Grandfather' clauses are included that enable existing behavior analysts to be seamlessly incorporated into the new regulatory standards, and do not disrupt existing supports. The workers have been practicing for up to 30 years and would experience a severe burden if required to further demonstrate the competencies they have already established.

In conclusion, let me restate that:

- The Department of Human Services supports the passage of this bill as amended, to join current psychologist licensing laws that include applied behavior analysis at license and registration levels.
- These amendments follow models suggested by the National Behavior Analysis Certification Board, with important additional features to recognize issues unique to North Dakota.
- The current regulations licensing psychologists would not be compromised, but clarifies applied behavior analysis as a legitimate sub-domain of psychology.
- Psychologists are difficult to recruit to North Dakota. The same is true for behavior analysts of any significant qualifications. I have been trying to recruit both psychologists and behavior analysts for the past 27 years with great difficulty. The proposed legislation respects these issues yet sets strong, firm qualifications to govern practicing professional applied behavior analysts.

I appreciate this opportunity to provide you with this testimony and would be happy to answer any questions.