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Dear Colleagues,

We start off this newsletter with two Latin phrases reflecting the fact that EPASSA is "going legal": Nihil de nobis, sine nobis, and amicus curiae.

We wish you an interesting read.

*Martin Strous
EPASSA Chairperson*

NIHIL DE NOBIS, SINE NOBIS

EPASSA is stepping up its efforts in combatting those whose actions threaten to marginalise our profession. To those who think they can speak on behalf of educational psychologists to the detriment of the profession and the public, EPASSA responds by saying with an increasingly strong and united voice, *Nihil de nobis, sine nobis* – "Nothing about us without us!"

AMICUS CURIAE

EPASSA has been admitted as amicus curiae in the matter of Relpag and JASA vs Professional Board for Psychology and Others. Educational psychologists will now have a strong voice in this case, due to be heard in the High Court in mid-November.

In our affidavit placed before the Court, EPASSA submits that the current Scope of Practice should not be used to restrict educational psychologists from areas in which they are competent by virtue of their education, training, supervised

experience and/or appropriate professional experience for the following reasons:

- A customary right to competent practice has been in place for years and has created a legitimate expectation that educational psychologists should be able to practice their profession without arbitrary restrictions;
- The scope of practice for educational psychologists is often interpreted by non-regulatory bodies or persons to exclude educational psychologists from working in spheres in which they are competent;
- The public were not invited to comment on the scope of practice at a meeting called for such a purpose;
- The scope of practice is vague; and the Professional Board for Psychology (PBP) has been silent when asked for guidance;
- Using the scope of practice to restrict our activities contradicts the divergent competencies that we have, contradicts other regulations, contradicts principles of community psychology, and may be at odds with best international and local practice;
- The scope of practice does not ensure professional competence;
- Preventing psychologists from behaving incompetently would be better effected with reference to the code of conduct for psychologists than with reference to the scope of practice.
- The Professional Board has failed to guide the profession when asked to.

We are on the web

Website:

www.epassa.net

Facebook:

[Educational Psychology
Association of South
Africa](#)

LinkedIn:

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Our lawyers outside the High Court

PROFESSIONAL BOARD FOR PSYCHOLOGY

EPASSA has written numerous letters to the HPCSA's Professional Board for Psychology. In summary:

- In October 2015, EPASSA requested assistance and clarification from the Board in relation to scope of practice issues. Our request was discussed by the Board behind closed doors on 11 November 2015. Minutes of the meeting were promised to us, but are apparently being held up by the HPCSA's legal department.
- On 1 April 2016, the Board Chairperson undertook to release guidelines relating to scope of practice issues within one month. These guidelines were drawn up by the PBP on 22 June 2016. They have not been released, again because they have not been approved by the HPCSA's legal department.
- We are suspicious of these delays because in 2014 Professor Gertie Pretorius of the Board informed Dr Martin Strous that the Board would not comment on the Scope of Practice matter until after the Relpag matter has been heard.

We query whether the Professional Board for Psychology is earnest in sorting out this problem, stringing EPASSA along or silenced by the HPCSA's legal department and therefore unable to operate as a functional professional board. We have asked the Chairperson of the Board to indicate when the promised guidelines will be released. We have also requested the opportunity to comment on the guidelines before their release.

EPASSA would be pleased to work collaboratively with the Board. We take note of the Chairperson of the Board's recent comments on a radio talk show in which he stated that medical aids should be paying psychologists. We hope that this may be the start of the Board finding its voice as the regulator of the profession.

CMS

The Council for Medical Schemes (CMS) is the regulator of medical aids. EPASSA believes that the CMS has conducted itself incorrectly with regard to the scope of practice debacle. In a circular dated 15 September 2011, the CMS effectively instructed medical aids not to discriminate between psychological categories. However, the CMS has since contradicted itself by stating that services rendered by educational psychologists do not have to be covered by medical aids. This is sheer discrimination. Regulation 993 (Department of Health, 2008) stipulates amongst other things that all psychologists can use any psychotherapeutic method, technique or procedure to rectify, relieve or change personality, emotional, behavioural or adjustment problems or mental deficiencies of individuals or groups of people.

As is the case with the Professional Board, the CMS is not dealing with this issue effectively. Should the matter not be resolved soon, EPASSA will join the Medical Aid Liaison Board in reporting the CMS to the South African Human Rights Commission.

MORE MEDICAL AIDS BEHAVING BADLY

Sanlam Health

Sanlam Health claims that on 4 August 2016, at a meeting convened by the Professional Board of Psychology of the HPCSA with representatives of medical aids to discuss payment of educational psychologists, it was confirmed that Form 224 contains the scopes of practice of psychologists, and that these are the only current scopes. Form 224 is a defunct document that effectively implied that educational psychologists do not work with adults. This statement by Sanlam Health is restrictive and discriminatory, and contradicts current regulations. Sanlam's contention has even been disputed by the Chairperson of the Professional Board for Psychology.

Although Sanlam Health is wrong both in law and fact, it sought to threaten one of our members with an ethical complaint

against her. Should Sanlam Health not withdraw its incorrect statements, a complaint will be lodged against Sanlam Health with the CMS within the next few days.

Polmed

Polmed also suddenly and without consultation halted payments to educational psychologists awhile back, based on their incorrect understanding of outdated guidelines. We note with displeasure that Polmed insinuated that educational psychologists were behaving fraudulently. In actual fact, according to the media, Polmed's top executives, their CEO and chief operations officer, have since been suspended, based on accusations that they committed fraud and financial misappropriation against the police medical aid.

MEDIA AND TALKS

Given the amount of disinformation that is put out about our profession, EPASSA is become increasingly vocal in disseminating correct information in the media and to professionals. Our executive committee members have participated and will be participating in the following talks:

May 2016

- EPASSA workshop on scope of practice
- Gill Berkowitz on ENCA

July 2016

- Martin Strous interviewed by News24
- Vanessa Gaydon on SAFM
- Vanessa Gaydon on PowerFM

August 2016

- Brandon Swanepoel, South African Psychoanalytic Confederation
- Martin Strous, East Rand Study and Supervision Group

September 2016 (forthcoming)

- Martin Strous, PsySSA plenary session



NETWORKING

EPASSA seeks to encourage cordial relationships with other organisations, but will not abandon its agenda or permit other organisations to derail us from achieving our goals in terms of maintaining our integrity and worth as part of the profession of psychology. EPASSA enjoys productive and mutually beneficial relationships with many outstanding organisations. However, organisations that opposed the establishment and growth of EPASSA and our activities will find EPASSA reluctant to trust their *bona fides*. Our members are advised not to take at face value the incorrect statements that are sometimes made by other organisations, especially when these statements seem better suited to protecting members of the Professional Board rather than the betterment of educational psychology.

MEMBERSHIP

There are approximately 1,200 Educational Psychologists registered in South Africa. We do not know how many are inactive because they are out the country, retired or uninvolved in practice. We also cannot obtain a list of all Educational Psychologists in the country to contact. It is therefore a significant achievement that EPASSA has a membership of over 450. Our statistics show that we are still gaining approximately ten new members each month. We are by far the largest organisation of educational psychologists in the country and we have a number of large organisations of psychologists representing all categories of psychologists with which we liaise.

FINANCES



Initially, EPASSA had just R3,000 in the bank. Because of the problems faced by practitioners, and our subsequent decision to go to court, we needed to raise funds to pay attorneys. Fortunately, we raised money quickly thanks to the generosity of our members.

Contact Us

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We would like to thank those educational psychologists who contributed toward EPASSA's legal costs appeal. The groundswell of support for our efforts is much appreciated and an affirmation of the leading role that EPASSA is taking in trying to protect our profession and the rights of the public.

To date, we have paid our lawyers a total of R127,500. We still, however, owe R13,437. Our current bank balance is R1,575 and we envisage the possibility of needing to raise another R100,000. We have to continue raising money urgently.

These are our options:

- We need to try collecting membership fees from our members who have not paid the voluntary 2016 membership fee.
- We will request 2017 membership fees in early December 2016. Please heed this call when it is made.
- Our members are invited to place adverts on our website and Facebook pages, such as practice adverts, at R1,500 an advert for the display period of one year.
- We will hold a fundraiser workshop in early February 2017.

Should we find ourselves unable to raise sufficient money, we will need to approach the court with minimal if any legal assistance. We will then be forced to consider finding a mechanism whereby EPASSA informs the judge and/or his clerk

that we wish to respond to new submissions from those who oppose our legal affidavit, but that in the absence of legal representation we request the Court to guide us in the interests of justice on the correct legal procedure. This may be a naïve and risky approach, but we will have to consider it.

We hope not to have to resort to the latter strategy, as EPASSA is creating a strong impression that we will not be pushed around in the legal arena. We have come a long way. It is important for us to try to follow through, especially as the Clinical Psychology Forum, which has been discriminatory against educational psychologists, has also been entered as amicus curiae and seems “all dressed up and ready to go.” EPASSA is the only organisation that is representing the specific interest of educational psychologists. We may never have this opportunity again to protect Educational Psychology services as a national resource.



We appeal to all our members and non-members to pay membership fees and in addition to continue contributing toward our fundraising for legal fees.