Our response:
Circular by EPASSA

The Recognition of Life Long Learning in Psychology Action Group (ReLPAG) and the Justice Alliance of South Africa (JASA) have successfully challenged the validity of the Scopes of Practice which, since 2011, created the impression that psychologists were limited to only provide the psychological services which are listed under the scope of practice for the registration category in which the psychologist is registered.

The Cape High Court declared the regulations invalid, in terms of a court order agreed to by the Minister of Health, the HPCSA and the Professional Board for Psychology, as well as the amici curiae (friends of the court), the Clinical Psychology Forum, the Educational Psychology Association of SA (EPASSA) and the Rural Health Advocacy Project and the applicants. The Board for Healthcare Funders has agreed to abide by the court order. The order of invalidity has been suspended for two years to allow the Minister to consider replacing the regulations appropriately.

EPASSA joined the court application as an amicus in support of JASA and ReLPAG. However, on 14th November 2016, shortly after the settlement was made an order of court, EPASSA’s Dr Martin Strous issued a circular in which he criticised the settlement, describing it as “disastrous”, a “serious setback” and referring to ReLPAG’s “withdrawal”.

ReLPAG wishes to put the record straight- they did not withdraw from the application, but settled it. EPASSA’s attorneys and advocates were present on the day that the settlement was negotiated and made an order of court, and they did not raise any objection to the terms of the settlement.

The settlement achieves just what the applicants had set out to achieve- the invalidity of the offending regulations. In addition, the provision in the court order dealing with disciplinary hearing in effect achieves their goal of avoiding any further disciplinary hearings against psychologists accused of acting outside the scope of their registration category.

While the applicants would have wished to avoid the 2 year suspension period, it is not an unusual provision in matters where legislation is declared invalid, and the applicants are actively undertaking advocacy to persuade medical aids to resume payments to psychologists which they previously refused due to the regulations.

There is a remaining dispute between the parties as to the proper interpretation of the regulations. The applicants have postponed that portion of the application and can return to court at any time in order to have that aspect decided.