



ASPPB

Association of State and
Provincial Psychology Boards

Supporting member jurisdictions in fulfilling their responsibility of public protection

President

Michelle G. Paul, PhD

Chief Executive Officer

Mariann Burnetti-Atwell, PsyD

Past President

Herbert L. Stewart, PhD

President-Elect

Hugh D. Moore, PhD, MBA

Secretary-Treasurer

Cindy Olvey, PsyD

Members at Large

Jennifer C. Laforce, PhD, CPsych

Ramona N. Mellott, PhD

Stacy Waldron, PhD

September 23, 2024

Dear ASPPB Members,

As we prepare for the upcoming Annual Meeting in Dallas, Texas, on October 30 – November 3, 2024, the ASPPB Board of Directors (Board) wanted to share with you some important information about the proposed amendment to the ASPPB bylaws that will come up for vote during the meeting. By now, you have probably heard about the amendment, which has been proposed by one jurisdiction as a direct reaction to ASPPB's implementation of a skills-based section of the Examination for Professional Practice in Psychology (EPPP). The Board's goal is to ensure that, prior to this important and unprecedented vote, all voting delegates have the benefit of complete and accurate information about the development and purpose of the skills component of the EPPP, as well as the potential detrimental effects and

unintended consequences of the proposed amendment. ([attached here for your convenience](#)).

In addition to the information provided below, the Board will be hosting an **information and discussion session for ASPPB jurisdictional and individual members on October 30 from 3:00 - 5:00 pm** at the site of the Annual Meeting, during which the Board will provide additional information about the EPPP (Part 2-Skills) and the implications of the proposed amendment, as well as field questions from ASPPB members about these issues. You are strongly encouraged to attend.

To the Board's knowledge, this is the first and only time a member jurisdiction has proposed a bylaws amendment for delegate vote. Given the importance and unprecedented nature of this vote, ASPPB has engaged an independent, professional parliamentarian to guide ASPPB and its membership during the Annual Meeting and to ensure a fair and transparent process. ASPPB's outside counsel from the law firm Baker McKenzie will also attend.

In the meantime, the Board thought it important to share the below information to address some of the questions that have been raised by member jurisdictions and to correct some of the significant misinformation that appears to be circulating.

1. What is the purpose of the proposed bylaws amendment?

The bylaws amendment was proposed by the Texas Behavioral Health Executive Council (BHEC), which oversees the Texas State Board of Examiners of Psychologists (an ASPPB member). Although the wording of the proposed amendment is somewhat unclear and imprecise, and although the Board cannot speak for the BHEC, it appears from the BHEC's public statements that its primary goal in proposing the amendment is to avoid having to use in the State of Texas the updated version of the EPPP that includes a skills-based component. The proposed amendment goes far beyond that singular goal, however, and seeks to remove ASPPB's fundamental authority over the development and administration of the EPPP and other test-related operational decisions.

2. What is the ASPPB Board's view of the proposed bylaws amendment?

The Board strongly opposes the proposed amendment. In the Board's view, the proposed amendment is highly unusual, unnecessary, and detrimental to the continued development and administration of the licensure exam. The proposed amendment also has unintended consequences, including potentially impeding ASPPB's ability to ensure that the EPPP remains a valid and fair exam, as well as its ability to defend the psychometric validity of the exam against future challenges. Additionally, the proposed amendment is entirely inconsistent with the very role of ASPPB and existing bylaws language, which charges ASPPB with the responsibility to "[d]evelop, maintain and offer examination programs for psychologists . . ." ([See Bylaws Article III\(E\)](#)).

In its public communications about the proposed amendment, the BHEC concedes that ASPPB's members "supported ASPPB's efforts to develop a skills exam." ([See BHEC "Explanation of Texas-proposed ASPPB Bylaw Amendment"](#)). But the BHEC contends that the member jurisdictions never requested that ASPPB actually require the jurisdictions to use that exam. This point of view is misguided and mischaracterizes the history of the development of the skills-based component of the exam. It also **disregards** ASPPB's mission of public protection—including its obligation to continuously improve the EPPP so as to ensure the exam provides the most up-to-date measure of minimum entry-level competence, in keeping with well-established educational and assessment standards. This viewpoint also ignores the long-recognized benefits of a uniform national licensure exam that promotes license portability and ensures a consistent measure of entry-level competence across jurisdictions.

Perhaps most importantly, the BHEC proposal incorrectly argues that the addition of a skills-based component to the EPPP somehow deprives member jurisdictions of their decision-making power and sovereignty. That is

simply not the case. No jurisdiction is required to use the EPPP or to be a member of ASPPB. But if a jurisdiction does choose to use the EPPP as one of its licensure requirements, it should rely upon the assessment and exam-development expertise of ASPPB and its psychometric staff, who are charged with studying and implementing well-established educational and assessment standards in the development of the EPPP. As has been the case for decades, ASPPB and its staff can be trusted to provide a valid and reliable licensure examination—even when that exam must evolve over time, in keeping with up-to-date assessment industry standards.

3. The Board may be opposed to the bylaws amendment, but isn't it harmless?

Unfortunately, the passage of the proposed amendment would have detrimental effects on the EPPP and broader, unintended consequences for ASPPB, its membership, and the global profession of organized psychology. Additionally, much of the language in the proposed amendment delves into operational and administrative details and decision making, which is highly unusual content not ordinarily found in an organization's bylaws and governing documents.

Please see the following comments on the specific proposed language of the amendment:

- **Proposed Bylaws Language:** *“No member jurisdiction shall be required, whether as a condition of membership or otherwise, to participate (sic) or utilize any services or programs offered by the Association.”*
- This language is unnecessary because, currently, no member jurisdiction is required to participate in any ASPPB offerings or to use any ASPPB services. ASPPB has never required any jurisdiction to use the skills- or knowledge-based components of the EPPP in order to maintain its membership. Of course, if a member jurisdiction chooses to use the EPPP as its licensure examination, it does so in reliance on the exam-development expertise of ASPPB and subject to ASPPB's exam-related policies, procedures and decisions.
- **Proposed Bylaws Language:** *“The Association shall not make access or availability of a service or program contingent on a member jurisdiction participating (sic) or utilizing another service or program.”*

This language is confusingly worded but appears to be directed at the upcoming 2026 transition to an EPPP that includes the Part 2 Skills-based component. This proposed language wrongly treats that skills-based component of the exam as an entirely different “service or program.” As ASPPB's psychometric staff can attest, the skills-based portion of the exam is intended to be an additional component of a comprehensive assessment of the test-taker's ability to satisfy minimum standards of competency. The member jurisdictions

nearly 15 years ago requested that ASPPB begin studying and developing a skills-based component, in recognition that the assessment of theoretical knowledge alone is not sufficient to assess competency. The EPPP (Part 2-Skills) was born from consensus among ASPPB's member jurisdictions and the professional education and training communities on the need to evolve the existing knowledge-based exam to a reliable, valid, legally defensible, and comprehensive competency-based licensing exam. You can find more details about the history of the development of the EPPP in our prior letter dated [July 1, 2024](#).

- **Proposed Bylaws Language:** *"The Association may offer multiple exams as part of its examination program. At a minimum, the Association shall offer a knowledge-based exam separate from any skill-based exam."*

This language again misconstrues the EPPP as a series of exams, as opposed to a single, comprehensive assessment of competence. It also undermines the very purpose for which the member jurisdictions requested the development of a skills-based component so many years ago. If adopted, this language would also strip ASPPB and its expert psychometric staff of its decision-making ability regarding the development and administration of the EPPP, potentially undermining the very validity of the exam. As a practical matter, the language would also restrict ASPPB's future decisions regarding how and when to administer the exam—for example, ASPPB would be prohibited from administering the entire EPPP on a single occasion, even if this were the most cost-effective, fair and secure method of administering the exam.

- **Proposed Bylaws Language:** *"Each exam offered by the Association must be administered on a single occasion. For purpose of this subsection, multiple consecutive days of exam administration may constitute a single occasion."*

This language is vague and unclear but appears to mandate and restrict how and under what circumstances the EPPP may be administered. Undoubtedly, such a restriction could have unintended consequences in the future, as the EPPP, technology, and assessment standards continue to evolve. Once incorporated into the bylaws, this mandate becomes part of ASPPB's governing documents, with limited opportunities for revision or rescission. It is highly unusual to impose such operational mandates in an organization's governing documents.

- **Proposed Bylaws Language:** *"For each exam, the Association may recommend, but shall not require, qualifications to sit for an exam, timing for administration of an exam, and passing scores."*

Once again, the proposed bylaws language attempts to restrict ASPPB's ability to make key decisions regarding the exam it develops and administers and improperly attempts to address operational decision making in ASPPB's governing documents. In addition to being highly unusual content for an organization's bylaws, the

proposed language undermines ASPPB’s ability to ensure that the exam is psychometrically valid, secure and reliable.

For example, currently, both the member jurisdictions and ASPPB have a role in determining who can access the EPPP and under what circumstances. By giving member jurisdictions the sole authority to make those decisions, the amendment would prohibit ASPPB from applying some of its important existing exam security protocols, such as the limits on the number of times an individual can sit for the exam within a 12-month period and the ability to suspend a test taker’s access to the exam when exam security violations occur. Additionally, the proposed amendment broadly removes ASPPB’s ability to dictate the timing of exam administrations in all circumstances, which is also problematic. That’s because the timing of a candidate’s exam administration must be determined by taking into account the purpose and design of the exam and security protocols and directly relates to the proper use of an exam and interpretation of exam results. Thus, prohibiting ASPPB from making certain decisions about exam administration timing potentially threatens the integrity, equity and fairness of the exam and may also compromise exam security—for example, if one jurisdiction’s timing for exam administrations is materially after another jurisdiction’s administrations, risking the exposure of exam forms to later test takers.

Additionally, ASPPB’s recommended passing standards are established through lengthy and rigorous standard-setting procedures designed to identify the criterion-referenced standards representing the minimum level of knowledge and skills required for psychologists. And using a well-recognized process called “equating,” ASPPB’s recommended cut scores are applied to multiple forms of the exam across multiple years to ensure that test takers encounter exams of equivalent difficulty and fairness. The proposed amendment would replace this well-established and well-recognized assessment approach with the potentially arbitrary decision making by each jurisdiction regarding passing scores. This would result in cut scores that are sample-dependent, are not established through rigorous standard-setting processes, and do not take into account the purpose and design of the exam or how it relates to job requirements, the format of the exam, item difficulty and other important factors. This undercuts the validity of the exam and destroys any notion that the exam is of equivalent difficulty across jurisdictions. As a result, the member jurisdictions become even more vulnerable to arguments that the regulation of psychologists in their jurisdiction is unreliable and unnecessary.

4. What’s wrong with letting each member decide what is best for its own jurisdiction?

Each jurisdictional licensing board or college (and its government) remains the sole authority with respect to what is required to obtain and maintain a license in that jurisdiction. No jurisdiction is required to use the EPPP as a prerequisite to licensure, nor is use of the EPPP required in order to be a member of ASPPB (although ASPPB recognizes that some jurisdictions may have to undergo legislative or regulatory changes if a decision is made to stop using the EPPP). But those jurisdictions that do choose to use the EPPP do so in

reliance on the psychometric and assessment expertise of ASPPB and agree to abide by ASPPB’s policies and procedures governing the administration of the exam. In turn, the member jurisdictions get all of the benefits of a uniform standard for measuring minimum competence.

5. What about those who say that the EPPP is racially biased, is too costly and contributes to the shortage of mental health service providers—and that the addition of a skills-based component will only exacerbate these problems?

It is true that some individuals have made these kinds of unfounded accusations about the EPPP, based on incorrect and incomplete information. To the extent these individuals are affiliated with professional associations or academia, they tend to disregard that ASPPB, and its member jurisdictions serve a mission of public protection, as opposed to being advocates for the profession. Indeed, it is because of this mission of public protection that licensure examinations are nearly always developed and maintained by associations of jurisdictional licensing boards, rather than professional associations. ASPPB has taken extensive measures to ensure that the EPPP is fair and unbiased, consistent with well-established educational and assessment standards. Additionally, ASPPB has always strived to strike a balance between covering the costs of developing and delivering the EPPP and ensuring that the exam is financially accessible. For more on the Board’s perspective on these unfounded criticisms of the EPPP and historic backdrop of the EPPP’s skills component, please reference our July 1, 2024 letter to ASPPB members ([reattached here for your convenience](#)).

6. Will the ASPPB delegates have the opportunity to discuss the proposed amendment? How will voting on the amendment take place?

Voting on the proposed amendment will take place during the business portion of the Annual Meeting on October 31, 2024. Like any other motion, the proposed amendment will be presented and voted upon in accordance with the ASPPB bylaws, governing parliamentary procedure and applicable law. Among other things, this means the delegates will have the opportunity for a period of discussion prior to voting on the amendment. Voting will be by secret ballot, consistent with ASPPB’s historical practice. As noted above, an independent, professional parliamentarian will guide ASPPB and its membership during the meeting and will help to ensure a fair and transparent process.

7. The Texas Behavioral Health Executive Council has publicly circulated a complaint letter it sent to the Federal Trade Commission (FTC) about ASPPB and the EPPP, accusing ASPPB of violating federal antitrust law. Has ASPPB been sued? Is ASPPB under investigation by the FTC?

Like you, the Board has seen a copy of the complaint letter that the Texas BHEC says it has delivered to the FTC. This represents the first time in ASPPB’s history that a member jurisdiction has accused ASPPB of

unlawful conduct and has urged a federal regulator to take action against the organization. To date, however, the FTC has not contacted ASPPB about the BHEC's complaints, nor is the Board aware of any lawsuit that has been filed against ASPPB. When and if the FTC contacts ASPPB about the EPPP, ASPPB will be happy to answer the FTC's questions.

In the meantime, not only are BHEC's unfounded allegations very disruptive to ASPPB and its membership, but they disregard the long development history and justifications behind the evolution of the EPPP. Perhaps most importantly, as ASPPB has been advised by its outside antitrust counsel, BHEC's arguments also reflect a fundamental misunderstanding and misapplication of antitrust law principles. For more on the Board's response to this accusation, please see our Announcement dated July 3, 2024 ([attached here for your convenience](#)).

8. How can I learn more about the potential consequences of the proposed bylaws amendment?

As mentioned above, ASPPB members should attend the in-person discussion session hosted by the Board at the Annual Meeting on October 30, 2024 from 3:00 - 5:00 pm. During that session, the Board will elaborate upon the points made in this letter and will respond to member questions.

Sincerely,

The ASPPB Board of Directors